

# IDAHO ADMINISTRATIVE BULLETIN

August 7, 2013 -- Volume 13-8

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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](http://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](http://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](http://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 2013**

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
13-1	January 2013	<b>*November 30, 2012</b>	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 9, 2013	September 4, 2013	September 25, 2013
13-10	October 2013	<b>**August 30, 2013</b>	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

**BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2014**

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
14-1	January 2014	<b>*November 29, 2013</b>	January 1, 2014	January 22, 2014
14-2	February 2014	January 10, 2014	February 5, 2014	February 26, 2014
14-3	March 2014	February 7, 2014	March 5, 2014	March 26, 2014
14-4	April 2014	March 7, 2014	April 2, 2014	April 23, 2014
14-5	May 2014	April 4, 2014	May 7, 2014	May 28, 2014
14-6	June 2014	May 9, 2014	June 4, 2014	June 25, 2014
14-7	July 2014	June 6, 2014	July 2, 2014	July 23, 2014
14-8	August 2014	July 11, 2014	August 6, 2014	August 27, 2014
14-9	September 2014	August 8, 2014	September 3, 2014	September 24, 2014
14-10	October 2014	<b>**August 29, 2014</b>	October 1, 2014	October 22, 2014
14-11	November 2014	October 10, 2014	November 5, 2014	November 26, 2014
14-12	December 2014	November 7, 2014	December 3, 2014	December 24, 2014

***\*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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<b>IDAPA 45</b>	<b>Human Rights Commission</b>
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<b>IDAPA 18</b>	<b>Insurance, Department of</b>
<b>IDAPA 05</b>	<b>Juvenile Corrections, Department of</b>
<b>IDAPA 09</b>	<b>Labor, Idaho Department of</b>
<b>IDAPA 20</b>	<b>Lands, Department of</b>
<b>IDAPA 30</b>	<b>Libraries, Commission for</b>
<b>IDAPA 52</b>	<b>Lottery Commission, Idaho State</b>
<b>IDAPA 22</b>	<b>Medicine, Board of</b>
<b>IDAPA 23</b>	<b>Nursing, Board of</b>

**ALPHABETICAL INDEX OF STATE AGENCIES  
AND CORRESPONDING IDAPA NUMBERS**

<b>IDAPA 24</b>	<b>Occupational Licenses, Board of (24.20)</b> Acupuncture, Board of (24.17) Architectural Examiners, Board of (24.01) Barber Examiners, Board of (24.02) Chiropractic Physicians, Board of (24.03) Contractors Board, Idaho (24.21) Cosmetology, Board of (24.04) Counselors and Marriage and Family Therapists, Licensing Board of Professional (24.15) Dentistry, Board of (24.16) Drinking Water and Wastewater Professionals, Board of (24.05) Driving Businesses Licensure Board, Idaho (24.25) Landscape Architects, Board of (24.07) Liquefied Petroleum Gas Safety Board, Idaho State (24.22) Midwifery, Idaho Board of (24.26) Morticians, State Board of (24.08) Nursing Home Administrators, Board of Examiners of (24.09) Occupational Therapy Licensure Board (24.06) Optometry, State Board of (24.10) Physical Therapy Licensure Board (24.13) Podiatry, State Board of (24.11) Psychologist Examiners, Idaho State Board of (24.12) Real Estate Appraiser Board (24.18) Residential Care Facility Administrators, Board of Examiners of (24.19) Social Work Examiners, State Board of (24.14) Speech and Hearing Services Licensure Board (24.23)
<b>IDAPA 25</b>	<b>Outfitters and Guides Licensing Board</b>
<b>IDAPA 50</b>	<b>Pardons and Parole, Commission for</b>
<b>IDAPA 26</b>	<b>Parks and Recreation, Department of</b>
<b>IDAPA 27</b>	<b>Pharmacy, Board of</b>
<b>IDAPA 11</b>	<b>Police, Idaho State</b>
<b>IDAPA 29</b>	<b>Potato Commission, Idaho</b>
<b>IDAPA 55</b>	<b>Professional-Technical Education, Division of</b>
<b>IDAPA 59</b>	<b>Public Employee Retirement System of Idaho (PERSI)</b>
<b>IDAPA 31</b>	<b>Public Utilities Commission</b>
<b>IDAPA 56</b>	<b>Rangeland Resources Commission, Idaho</b>
<b>IDAPA 33</b>	<b>Real Estate Commission, Idaho</b>
<b>IDAPA 34</b>	<b>Secretary of State, Office of the</b>
<b>IDAPA 57</b>	<b>Sexual Offender Management Board</b>
<b>IDAPA 49</b>	<b>Shorthand Reporters Board, Idaho Certified</b>
<b>IDAPA 60</b>	<b>Soil and Water Conservation Commission, Idaho State</b>

<b>ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS</b>	
<b>IDAPA 36</b>	<b>Tax Appeals, Board of</b>
<b>IDAPA 35</b>	<b>Tax Commission, State</b>
<b>IDAPA 39</b>	<b>Transportation Department, Idaho</b>
<b>IDAPA 54</b>	<b>Treasurer, Office of the State</b>
<b>IDAPA 21</b>	<b>Veterans Services, Division of</b>
<b>IDAPA 46</b>	<b>Veterinary Medical Examiners, Board of</b>
<b>IDAPA 47</b>	<b>Vocational Rehabilitation, Division of</b>
<b>IDAPA 37</b>	<b>Water Resources, Department of</b>
<b>IDAPA 42</b>	<b>Wheat Commission</b>

## IDAPA 02 - DEPARTMENT OF AGRICULTURE

### 02.06.09 - RULES GOVERNING INVASIVE SPECIES

DOCKET NO. 02-0609-1301

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-1907, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2013. The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

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

1. Add three definitions: "Energy Crop Invasive Species," "Facility" and "Trap Crop Invasive Species."
2. Amend Section 103, Possession Permits, to remove the transport permit requirement for bullfrogs.
3. Amend Section 104.03, Exempt Species - Transport Permits, to extend transport permit validity to five (5) years.
4. Add Section 105, Energy Crop Invasive Species Possession/Production Permits, creating a method of application for Energy Crop Invasive Species Possession/Production Permits.
5. Add Section 106, Trap Crop Invasive Species Permits, creating a method of application for Trap Crop Invasive Species Permits.
6. Amend Sections 806, Invasive Species-Insects, 807, Invasive Species-Plant Pathogens and Parasitic Nematodes, 809, Invasive Species-Invasive Plants and 810, Invasive Species - Invasive Plants - Trap Crops, to update scientific and common names and to add hybrids of certain listed invasive species.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking published in the June 5, 2013, Idaho Administrative Bulletin, [Vol. 13-6, Page 21](#). Negotiated rulemaking meetings were held on June 13 and June 27, 2013.

**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 Matt Voile, Section Manager, (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Matt Voile and must be delivered on or before August 28, 2013. Comments can be delivered via email to [matt.voile@agri.idaho.gov](mailto:matt.voile@agri.idaho.gov) or via regular mail to Matt Voile's attention at the address listed below.

DATED this 3rd day of July, 2013.

Brian J. Oakey  
Deputy Director  
Idaho State Department of Agriculture

2270 Old Penitentiary Road  
P.O. Box 790, Boise, Idaho 83701  
Phone: (208) 332-8500 Fax: (208) 334-2170

THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 02-0609-1301

**010. DEFINITIONS.**

The following definitions shall apply in the interpretation and enforcement of this rule. (3-29-10)

**01. Acts.** Title 22, Chapter 19, Idaho Code, the “Idaho Invasive Species Act of 2008” and Title 22, Chapter 20, the “Idaho Plant Pest Act of 2002.” (3-29-10)

**02. Aquatic Invertebrate Invasive Species.** Those species listed in Section 800. (3-29-10)

**03. Control.** The abatement, suppression, or containment of an invasive species or pest population. (3-29-10)

**04. Conveyance.** A terrestrial or aquatic vehicle or a vehicle part that may carry or contain an invasive species or plant pest. A conveyance includes a motor vehicle, a vessel, a motorboat, a sailboat, a personal watercraft, a container, a trailer, or any other means or method of transportation. “Conveyance” also includes a live well or a bilge area. (3-29-10)

**05. Department.** The Idaho State Department of Agriculture. (3-29-10)

**06. Director.** The director of the Idaho State Department of Agriculture or his designee. (3-29-10)

**07. Dreissenia Infested Waterbody.** Body of water designated by the United States Geological Survey, <http://nas.er.usgs.gov/taxgroup/mollusks/zebramussel/>, or the Director as having a population of any life stage of Dreissenia mussels. (3-29-10)

**08. Early Detection/Rapid Response.** Finding invasive species during the initial stages of colonization and then responding within ten (10) days. (3-29-10)

**09. Energy Crop Invasive Species.** An Energy Crop Invasive Species is a non-native plant grown to harvest for use in making biofuels, such as bioethanol, or combusted for its energy content to generate electricity or heat. Energy Crop Invasive Species are non-native plants that are cultivated for the purpose of producing (non-food) energy. ( )

~~09~~**10. Equipment.** An article, tool, implement, or device capable of carrying or containing: (3-29-10)

**a.** Water; or (3-29-10)

**b.** An invasive species. (3-29-10)

**11. Facility.** Any place, site or location or part thereof where a species listed as invasive pursuant to this rule are found, handled, housed, held, planted, or otherwise maintained for purposes governed by a possession, production, or transport permit issued pursuant to these rules and includes, but is not limited to all fields, plats, buildings, lots, structures, and other appurtenances and improvements on the land. ( )

~~10~~**2. Invasive Species.** Species not native to Idaho, including their seeds, eggs, spores, larvae or other biological material capable of propagation, that cause economic or environmental harm and are capable of spreading in the state. “Invasive species” does not include crops, improved forage grasses, domestic livestock, or other beneficial nonnative organisms. (3-29-10)

~~13~~**3. Invasive Species Act.** The Idaho Invasive Species Act of 2008. (3-29-10)

~~12~~**4. Plant Pest Act.** The Idaho Plant Pest Act of 2002. (3-29-10)

~~135.~~ **Possession.** The act of cultivating, importing, exporting, shipping or transporting a listed invasive species in Idaho. Possession does not include the act of having, releasing or transporting a listed invasive species through circumstances beyond individual control, including but not limited to infestations in a water supply system, infestations resulting from natural spread of the species or some other acts of nature. (3-29-10)

~~146.~~ **State.** The state of Idaho. (3-29-10)

~~157.~~ **Transportation.** Any and all modes of personal and commercial Conveyance, including but not limited to automobiles, trucks, buses, boats, airplanes, helicopters, and trains. (3-29-10)

**18. Trap Crop Invasive Species.** A Trap Crop Invasive Species is a non-native plant species planted for purposes of controlling or eradicating a Plant Pest, as defined in the Idaho Plant Pest Act of 2002. ( )

~~169.~~ **Water Body.** Natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank and fountain. (3-29-10)

~~170.~~ **Water Supply System.** A system used to treat, store, convey, or distribute water for irrigation, industrial, waste water treatment, residential, or culinary use. A Water Supply System includes a pump, canal, ditch, regulating impoundment, in-canal forebay, pipeline, or associated wetland and water quality improvement project, but does not include a Water Body as defined in Subsection 010.19. (3-29-10)

**(BREAK IN CONTINUITY OF SECTIONS)**

**101. PROHIBITION ON POSSESSION, IMPORTATION, SHIPPING OR TRANSPORTATION OF INVASIVE SPECIES.**

No person may possess, cultivate, import, ship, or transport any invasive species, including but not limited to an Energy Crop Invasive Species or Trap Crop Invasive Species, into or through the state of Idaho following the effective date of this rule, unless the person possessing, importing, shipping or transporting has obtained a permit under Section 103, or unless otherwise exempt by this rule, as set forth in Section 104. Prohibited acts include but are not limited to: ~~(3-29-10)~~( )

**01. Possession or Transportation.** Possessing, cultivating, importing, exporting, shipping, or transporting an invasive species into or through the state of Idaho. (3-29-10)

**02. Releasing.** Releasing, placing, planting, or causing to be released, an invasive species in a water body, facility, water supply system, field, garden, planted area, ecosystem, or otherwise into the environment within the state of Idaho. (3-29-10)

**03. Transporting From an Infested Environment.** Transporting a conveyance or equipment into or through the state of Idaho that has been in an infested environment without obtaining a Department-approved decontamination of the conveyance or equipment. (3-29-10)

**04. Transporting an Infested Article.** Transporting, importing or shipping any plant, animal, mode of transportation, conveyance, or article that is infested with an invasive species into or through the state of Idaho without obtaining a Department-approved decontamination of the object. (3-29-10)

**(BREAK IN CONTINUITY OF SECTIONS)**

**103. POSSESSION PERMITS.**

Possession of invasive species is authorized only if the person possessing the species obtains a possession permit. ~~Persons who legally possess and transport bullfrogs pursuant to IDAPA 13.01.06 "Classification and Protection of Wildlife" and IDAPA 13.01.11 "Rules Governing Fish" and Idaho Code, Title 36 are exempted from obtaining a~~

~~possession permit.~~

~~(3-29-10)( )~~

**01. Application for Possession Permits.** Persons seeking a possession permit must make application on a form prescribed by the Director. A separate application must be submitted for each facility where invasive species will be possessed. The application must include: (3-29-10)

- a. The applicant's name, address (residence and mailing), and Employer or Tax Identification Number. (3-29-10)
- b. Description of the proposed facility, including: (3-29-10)
  - i. A map identifying the location of the proposed facility; (3-29-10)
  - ii. The legal description of the real property for the proposed facility; (3-29-10)
  - iii. The approximate total area of the proposed facility; (3-29-10)
  - iv. A detailed diagram of proposed facility, (3-29-10)
  - v. A detailed confinement or HACCP Plan if applicable. (3-29-10)
- c. Name and address of the owner(s) and/or operator(s) of the proposed facility, if different than the applicant. If the proposed facility will be leased, a written and notarized authorization by the property owner must be included. (3-29-10)
- d. A copy of local zoning authority approval, if approval is required by the local zoning authority. (3-29-10)
- e. Description of the invasive species to be possessed at the facility, including, to the extent possible, the genus, species, sex, life state, age, identification, and purpose for possessing each species. (3-29-10)
- f. The date upon which the proposed facility will be available for inspection by the Department, which must be not less than seven (7) days prior to the time the invasive species are possessed at the proposed facility. (3-29-10)

**02. Application Process.** The Director will consider all information in the application and issue a written decision granting or denying the application. In reviewing the application, the Director will consider factors including but not limited to: (3-29-10)

- a. Proximity of the facility to agricultural operations, and environmentally sensitive lands and waters. (3-29-10)
- b. Potential for access to the facility by unauthorized persons. (3-29-10)
- c. Potential for vandalism, adverse weather, or other events that compromise the security of the facility. (3-29-10)
- d. Potential for the invasive species to escape or be released from the facility. (3-29-10)
- e. Whether, based on the applicant's certification and any other evidence received by the Director in connection with the application or proposed facility, all federal, state, county and city laws applicable to the facility have been met. (3-29-10)
- f. Whether the applicant has adequate knowledge, experience and training to ensure that the invasive species will not harm agriculture, the natural resources and environment of the state of Idaho. Such experience may be documented by a log book, employment records, education records or other means by which experience may be authenticated. (3-29-10)

**g.** Whether the facility is or will be adequately designed, constructed, and managed to protect agriculture, the natural resources and environment of the state of Idaho from escape of the invasive species.(3-29-10)

**h.** Prior to issuing a possession permit, the Director or his designee may perform an inspection of the facility to determine if its design, construction and proposed operation is consistent with the applicable provisions of Idaho law. (3-29-10)

**03. Grant or Denial of the Permit.** Following review of the application and any other relevant information, the Director will either issue the possession permit or deny the application and notify the applicant. If the Director issues the permit, he may include any necessary conditions to prevent release or escape of the invasive species, and to prevent harm to Idaho's agriculture, natural resources, and the environment. (3-29-10)

**04. Duration of Possession Permit.** A possession permit is valid until the permitted person no longer possesses the invasive species, or until the invasive species leaves the state. (3-29-10)

**05. Permit Revocation.** Permits issued pursuant to this chapter may be revoked at any time if the director or his designee finds that the permit holder has violated any of the provisions of this chapter, the Invasive Species Act, the Plant Pest Act, or any of the conditions included in the permit. (3-29-10)

**06. Disposition of Non-Permitted Invasive Species.** The Director may order non-permitted or illegally imported invasive species to be removed from the state or destroyed. (3-29-10)

**07. Annual Report.** All permit holders shall submit a report no later than January 1 of each calendar year, on forms provided by the Department. (3-29-10)

**104. EXEMPT SPECIES.**

The following species were present in portions of the state of Idaho prior to adoption of these Rules. However, they are not present throughout the state, and in accordance with the policy of the state of Idaho, as expressed in Idaho Code, Section 22-1902, the spread of these species should be prevented to the greatest extent possible. Therefore, the species listed below are exempt from the permit requirements of Sections 102 and 103, above. However, those seeking to transport the species listed in Section 104.01 outside the known established distribution area must obtain a transport permit in accordance with Section 104.03. (3-29-10)

**01. Exempt Species List:** (3-29-10)

**a.** New Zealand Mud Snail, *Potamopyrgus antipodarum*; (3-29-10)

**b.** Bullfrog, *Lithobates catesbeianus*; ( )

**b.c.** Asian Clam, *Corbicula fluminea*. (3-29-10)

**02. Location of Known Established Populations.** Known established distributions of the New Zealand Mud Snail, Bullfrog, and Asian Clam are identified and mapped online at <http://nas.er.usgs.gov/queries>. (3-29-10)( )

**03. Transport Permits.** Any person seeking to transport one of the species listed in Subsection 104.01 above outside of the known established distribution boundaries delineated in Subsection 104.02, above, must obtain a transport permit that will be valid for ~~one~~ five (5) years. For the purposes of this rule, transport of these exempt species is assumed when biological organisms and associated water from aquaculture facilities and hatcheries is moved from known infested areas in the state. (3-29-10)( )

**04. Application for Transport Permits.** Persons seeking a transport permit must make application on a form prescribed by the Director. A separate application must be submitted for each facility from which invasive species will be transported. The application must include: (3-29-10)

**a.** The applicant's name, address (residence and mailing), and Employer or Tax Identification

- Number. (3-29-10)
- b.** Description of the facility of origin, including: (3-29-10)
    - i. A map identifying the location of the facility; (3-29-10)
    - ii. The legal description of the real property for the facility; (3-29-10)
    - iii. The approximate total area of the facility; (3-29-10)
    - iv. A detailed diagram of facility, (3-29-10)
    - v. A detailed HACCP Plan if applicable. (3-29-10)
  - c.** Name and address of the owner(s) and/or operator(s) of the facility, if different than the applicant. If the proposed facility will be leased, a written and notarized authorization by the property owner must be included. (3-29-10)
  - d.** Description of the invasive species to be transported from the facility, including the genus, species, sex, life state, age, and purpose for transporting the species. (3-29-10)
  - e.** Description of self-contained areas needing draining or discharges of water during or after the transport of invasive species. (3-29-10)
  - f.** Description of procedures to drain self contained areas after transport is complete, including: (3-29-10)
    - i. Into a municipal water treatment facility; or (3-29-10)
    - ii. Into an on-site waste treatment facility incorporating sand filtration and chlorination; or (3-29-10)
    - iii. As approved by the Department. (3-29-10)

**105. ENERGY CROP POSSESSION/PRODUCTION PERMITS.**

Possession and/or production of Energy Crop Invasive Species is authorized only if the person possessing the species obtains an Energy Crop Invasive Species Possession/Production Permit ("Energy Crop Invasive Species Permit"). ( )

**01. Application for Energy Crop Invasive Species Permits.** Persons seeking an Energy Crop Invasive Species Permit must make application on a form prescribed by the Director. A separate application must be submitted for each facility or field where the Energy Crop Invasive Species will be possessed and/or produced. The application must include: ( )

- Number. **a.** The applicant's name, address (residence and mailing), and Employer or Tax Identification ( )
- b.** Description of the proposed facility, including: ( )
    - i.** A map identifying the location of the proposed facility or field; ( )
    - ii.** The legal description of the real property for the proposed facility or field; ( )
    - iii.** The approximate total area of the proposed facility or field; ( )
    - iv.** A detailed diagram of proposed facility or field; ( )
    - v.** A detailed confinement plan if applicable; and ( )

vi. A detailed plan outlining survey and reconnaissance for escaped Energy Crop Invasive Species and a detailed plan for their control or elimination. ( )

c. Name and address of the owner(s) and/or operator(s) of the proposed facility or field, if different than the applicant. If the proposed facility or field will be leased, a written and notarized authorization by the property owner must be included. ( )

d. A copy of local zoning authority approval, if approval is required by the local zoning authority. ( )

e. Description of the Energy Crop Invasive Species to be possessed at the facility or field, including, to the extent possible, the genus, species, sex, life state, age, identification, and purpose for possessing each species. ( )

f. The date upon which the proposed facility or field will be available for inspection by the Department, which must be not less than seven (7) days prior to the time the Energy Crop Invasive Species are possessed at the proposed facility. ( )

**02. Application Process.** The Director will consider all information in the application and issue a written decision granting or denying the application. In reviewing the application, the Director will consider factors including but not limited to: ( )

a. Proximity of the facility to other agricultural operations, and environmentally sensitive lands and waters. ( )

b. Potential for access to the facility or field by unauthorized persons. ( )

c. Potential for vandalism, adverse weather, or other events that compromise the security of the facility or field. ( )

d. Potential for the Energy Crop Invasive Species to escape or be released from the facility or field. ( )

e. Whether, based on the applicant's certification and any other evidence received by the Director in connection with the application or proposed facility, all federal, state, county and city laws applicable to the facility or field have been met. ( )

f. Whether the applicant has adequate knowledge, experience and training to ensure that the Energy Crop Invasive Species will not harm agriculture, the natural resources and environment of the state of Idaho. Such experience may be documented by a log book, employment records, education records or other means by which experience may be authenticated. ( )

g. Whether the facility or field is or will be adequately designed, constructed, and managed to protect agriculture, the natural resources and environment of the state of Idaho from release or escape of the Energy Crop Invasive Species. ( )

h. Prior to issuing an Energy Crop Invasive Species Permit, the Director or his designee may perform an inspection of the facility or field to determine if its design, construction and proposed operation is consistent with the applicable provisions of Idaho law. ( )

**03. Grant or Denial of the Permit.** Following review of the application and any other relevant information, the Director will either issue the permit or deny the application and notify the applicant. If the Director issues the permit, he may include any necessary conditions to prevent release or escape of the Energy Crop Invasive Species, and to prevent harm to Idaho's agriculture, natural resources, and the environment. ( )

**04. Duration of Possession Permit.** An Energy Crop Invasive Species Permit is valid for one (1) year.

( )

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

**06. Disposition of Non-Permitted Invasive Species.** The Director may order non-permitted or illegally imported Energy Crop Invasive Species to be removed from the state or destroyed. ( )

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

**106. TRAP CROP INVASIVE SPECIES PERMITS.**

Production/research of Trap Crop Invasive Species is authorized only if the person possessing the species obtains a Trap Crop Production/Research Permit ("Trap Crop Invasive Species Permit"). ( )

**01. Application for Trap Crop Invasive Species Permits.** Persons seeking a Trap Crop Invasive Species Permit must make application on a form prescribed by the Director. A separate application must be submitted for each facility where Trap Crop Invasive Species will be researched or produced. The application must include: ( )

**a.** The applicant's name, address (residence and mailing), and Employer or Tax Identification Number. ( )

**b.** Description of the proposed facility, including: ( )

**i.** A map identifying the location of the proposed facility; ( )

**ii.** The legal description of the real property for the proposed facility; ( )

**iii.** The approximate total area of the proposed facility; ( )

**iv.** A detailed diagram of proposed facility; ( )

**v.** A detailed confinement plan if applicable; and ( )

**vi.** A detailed plan outlining survey and reconnaissance for escaped plants and a detailed plan for their control or elimination. ( )

**c.** Name and address of the owner(s) and/or operator(s) of the proposed facility, if different than the applicant. If the proposed facility will be leased, a written and notarized authorization by the property owner must be included. ( )

**d.** A copy of local zoning authority approval, if approval is required by the local zoning authority. ( )

**e.** Description of the Trap Crop Invasive Species to be possessed at the facility, including, to the extent possible, the genus, species, sex, life state, age, identification, and purpose for possessing each species. ( )

**f.** The date upon which the proposed facility will be available for inspection by the Department, which must be not less than seven (7) days prior to the time the Trap Crop Invasive Species is possessed at the proposed facility. ( )

**02. Application Process.** The Director will consider all information in the application and issue a written decision granting or denying the application. In reviewing the application, the Director will consider factors including but not limited to: ( )

- a.** Proximity of the facility to agricultural operations, and environmentally sensitive lands and waters. ( )
- b.** Potential for access to the facility by unauthorized persons. ( )
- c.** Potential for vandalism, adverse weather, or other events that compromise the security of the facility. ( )
- d.** Potential for the Trap Crop Invasive Species to escape or be released from the facility. ( )
- e.** Whether, based on the applicant's certification and any other evidence received by the Director in connection with the application or proposed facility, all federal, state, county and city laws applicable to the facility have been met. ( )
- f.** Whether the applicant has adequate knowledge, experience and training to ensure that the Trap Crop Invasive Species will not harm agriculture, the natural resources and environment of the state of Idaho. Such experience may be documented by a log book, employment records, education records or other means by which experience may be authenticated. ( )
- g.** Whether the facility is or will be adequately designed, constructed, and managed to protect agriculture, the natural resources and environment of the state of Idaho from escape of the Trap Crop Invasive Species. ( )
- h.** Prior to issuing a Trap Crop Invasive Species Permit, the Director or his designee may perform an inspection of the facility to determine if its design, construction and proposed operation is consistent with the applicable provisions of Idaho law. ( )
- 03.** Grant or Denial of the Trap Crop Invasive Species Permit. Following review of the application and any other relevant information, the Director will either issue the Trap Crop Invasive Species Permit or deny the application and notify the applicant. If the Director issues the Trap Crop Invasive Species Permit, he may include any necessary conditions to prevent release or escape of the Trap Crop Invasive Species, and to prevent harm to Idaho's agriculture, natural resources, and the environment. ( )
- 04.** Duration of Trap Crop Invasive Species Permit. A Trap Crop Invasive Species Permit is valid for one (1) year. ( )
- 05.** Permit Revocation. Permits issued pursuant to this section may be revoked at any time if the Director or his designee finds that the permit holder has violated any of the provisions of this chapter, the Invasive Species Act, the Plant Pest Act, or any of the conditions included in the permit. ( )
- 06.** Disposition of Non-Permitted Invasive Species. The Director may order non-permitted or illegally imported Trap Crop Invasive Species to be removed from the state or destroyed. ( )
- 07.** Annual Report. All permit holders shall submit a report no later than January 1 of each calendar year, on forms provided by the Department. ( )

1057. -- 199. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

806. INVASIVE SPECIES - INSECTS.

- 01.** Asian Longhorned Beetle, *Anoplophora glabripennis*. (3-29-10)

- |     |   |                          |
|-----|---|--------------------------|
| 02. | Citrus Longhorned Beetle, <i>Anoplophora chinensis</i> .  | (3-29-10)                |
| 03. | Emerald Ash Borer, <i>Agrilus planipennis</i> .   | (3-29-10)                |
| 04. | Marmorated Stink Bug, <i>Halyomorpha halys</i> .  | (3-29-10)                |
| 05. | European Woodwasp, <i>Sirex noctilio</i> .  | (3-29-10)                |
| 06. | European Gypsy Moth, <i>Lymantria dispar</i> .  | (3-29-10)                |
| 07. | Asian Gypsy Moth, <i>Lymantria dispar</i> .   | (3-29-10)                |
| 08. | Soybean Aphid, <i>Aphis glycines</i> .  | (3-29-10)                |
| 09. | Potato Tuber Moth, <i>Tecia solanivora</i> .  | (3-29-10)                |
| 10. | Japanese Beetle, <i>Popillia japonica</i> .   | <del>(3-29-10)</del> ( ) |
| 11. | Mexican Bean Beetle, <i>Epilachna varivestis</i> .  | (3-29-10)                |
| 12. | Kaphra beetle, <i>Trogoderma granarium</i> .  | (3-29-10)                |
| 13. | Red Imported Fire Ant, <i>Solenopsis invicta</i> .  | (3-29-10)                |
| 14. | Glassy-winged Sharpshooter, <i>Homalodisca <del>coagulate</del> vitripennis</i> .                                   | <del>(3-29-10)</del> ( ) |
| 15. | Grape Phylloxera, <i>Daktulosphaira vitifoliae</i> .  | (3-29-10)                |
| 16. | Vine Mealybug, <i>Planococcus ficus</i> .   | (3-29-10)                |
| 17. | Summer Fruit Tortix, <i>Adoxophyes orana</i> .  | (3-29-10)                |
| 18. | Silver Y Moth, <i>Auto<del>o</del>grapha gamma</i> .  | <del>(3-29-10)</del> ( ) |
| 19. | False Codling Moth, <i>Cry<del>pt</del>ophlebia leucotreta</i> .  | <del>(3-29-10)</del> ( ) |
| 20. | Light Brown Apple Moth, <i>Epiphyas postvittana</i> .   | (3-29-10)                |
| 21. | Apple Tortrix, <i>Archips fuscocupreanus</i> .  | (3-29-10)                |
| 22. | Pine Shoot Beetle, <i>Tomicus piniperda</i> .   | (3-29-10)                |
| 23. | Cherry Bark Tortrix, <i>Enarmonia formosana</i> .   | (3-29-10)                |
| 24. | Apple Ermine Moth, <i>Yp<del>om</del><del>o</del><del>n</del><del>e</del><del>u</del><del>t</del>a malinellus</i> . | <del>(3-29-10)</del> ( ) |
| 25. | Cherry Ermine Moth, <i>Enarmonia formosana</i> .  | (3-29-10)                |
| 26. | European Grape Vine Moth, <i>Lobesia botrana</i> .  | (3-29-10)                |
| 27. | European Grape Berry Moth, <i>Eupoecilia ambiguella</i> .   | (3-29-10)                |
| 28. | Plum Fruit Moth, <i>Cydia funebrana</i> .   | (3-29-10)                |
| 29. | Plum Curculio, <i>Conotrachelus nenuphar</i> .  | (3-29-10)                |
| 30. | Leek Moth, <i>Acrolepiopsis assectella</i> .  | (3-29-10)                |

31. Bee Mite, *Tropilaelaps cleareae*. ~~(3-29-10)~~( )
32. Small Hive Beetle, *Aethina tumida*. (3-29-10)
33. Africanized Honey Bee, *Apis mellifera*. (3-29-10)
34. Black Currant Gall Mite, *Cecidophyopsis ribis*. (3-29-10)
35. Exotic Bark Beetles, (Scolytidae): (3-29-10)
- a. *Scolytus mali*. (3-29-10)
- b. *Xylosandrus crassiusculus*. (3-29-10)
- c. *Xylosandrus germanus*. (3-29-10)
- d. *Xyleborus californicus*. (3-29-10)
36. Sunni Bug, *Eurygaster integriceps*. ~~(3-29-10)~~( )
37. German Yellowjacket, *Vespula germanica*. (3-29-10)
38. European Paper Wasp, *Polistes dominulus*. (3-29-10)
39. European Elm Bark Beetle, *Scolytus multistriatus*. (3-29-10)
40. Banded Elm Bark Beetle, *Scolytus schevyrewi*. (3-29-10)
41. Wheat Blossom Midge, *Sitodiplosis mosellana*. (3-29-10)
42. Potato Tuberworm, *Phthorimeaea operculella*. (3-29-10)
43. Pink Hibiscus Mealybug, *Maconellicoccus hirsutus*. ~~(3-29-10)~~( )
- 44. Bean Plataspid (Kudzu Bug), *Megacopta cribraria*. ( )**
807. INVASIVE SPECIES - PLANT PATHOGENS AND PARASITIC NEMATODES.
01. ~~Sudden Oak Death (Ramorum blight)~~ **Phytophthora blight (nursery stock), *Phytophthora ramorum*, *Phytophthora kernoviae*.** ~~(3-29-10)~~( )
02. Karnal Bunt, *Tilletia indica*. (3-29-10)
- ~~03. Bean Common Mosaic Virus, (strain US-6).~~ ~~(3-29-10)~~
- ~~04~~3. Bean Common Mosaic Necrosis Virus (strain NL-3 and NL-5). (3-29-10)
- ~~05~~4. Potato Wart, *Synchytrium endobioticum*. (3-29-10)
- ~~06~~5. Golden Nematode, *Globodera rostochiensis*. (3-29-10)
- ~~07~~6. Soybean Cyst Nematode, *Heterodera glycines*. (3-29-10)
- ~~08~~7. Bacterial Wilt of Alfalfa, *Clavibacter michiganensis* spp. *insidiosus*. (3-29-10)
- ~~09~~8. Wheat Seed Gall Nematode, *Anguina tritici*. (3-29-10)

- ~~109.~~ Pine Wilt Nematode, *Bursaphelenchus xylophilus*. (3-29-10)
- ~~110.~~ Brown Rot of Potatoes, *Ralstonia solanacearum*, race 3, biovar 2 (alternate hosts include tomato, pepper, eggplant, and some greenhouse plants including geranium). (3-29-10)
- ~~121.~~ Java Downy Mildew of Corn, *Peronosclerospora maydis*. (3-29-10)
- ~~132.~~ Philippine Downy Mildew of Corn, *Peronosclerospora philipeninsis*. (3-29-10)
- ~~143.~~ Asian Soybean Rust, *Phakospora pachyrhizi*. (3-29-10)
- ~~154.~~ Plum Pox Potyvirus. (3-29-10)
- ~~165.~~ Cherry Leaf Roll Virus. (3-29-10)
- ~~176.~~ Stewart's Wilt of Corn, *Pantoea stewartii*. (3-29-10)
- ~~187.~~ Brown Stripe Downy Mildew of Corn, *Sclerophthora rayssiae* var. *zeae*. (3-29-10)
- ~~198.~~ Potato Spindle Tuber Viroid. (3-29-10)
- ~~2019.~~ Pierce's Disease of Grapes, *Xylella fastidiosa*. (3-29-10)
- ~~210.~~ Black Currant Reversion Disease. (3-29-10)
- ~~221.~~ Powdery Mildew of Hops, *Sphaerotheca macularis* (s. *humuli*). (3-29-10)
- ~~23.~~ ~~Bacterial Brown Spot of Beans, *Pseudomonas syringae* pv *syringae*.~~ (~~3-29-10~~)
- ~~242.~~ Wheat Smut, *Tilletia tritici*. (3-29-10)
- ~~253.~~ Wheat Scab, *Fusarium graminearum*. (~~3-29-10~~) ( )
- ~~264.~~ Potato Ring Rot, ~~*Corynebacterium sepedonicum*~~ *Clavibacter michiganensis* subsp. *sepidonicus*. (~~3-29-10~~) ( )
- ~~275.~~ Potato Late Blight, *Phytophthora infestans*. (3-29-10)
- ~~286.~~ Onion White ~~FR~~rot, *Sclerotium cepivorum*. (~~3-29-10~~) ( )
- ~~29.~~ ~~Sugar Beet Rhizomania (beet necrotic yellow vein virus (BNYVV) and transmitted by the soil fungus *Polymyxa betae*).~~ (~~3-29-10~~)
- ~~3027.~~ White Pine Blister Rust, *Cronartium ribicola*. (3-29-10)
- ~~31.~~ ~~Cereal Cyst Nematode, *Heterodera avenae*.~~ (~~3-29-10~~)
- ~~32.~~ ~~Columbia Root Knot Nematode, *Meloidogyne chitwoodi*.~~ (~~3-29-10~~)
- ~~33.~~ ~~Onion Stem and Bulb Nematode, *Ditylenchus dipsaci* (onion race).~~ (~~3-29-10~~)
- ~~34.~~ ~~Iris Yellow Spot Virus—IYSV of onions.~~ (~~3-29-10~~)
- ~~3528.~~ Potato Mop Top Virus, PMTV. (3-29-10)
- ~~3629.~~ Black Stem Rust, *Puccinia graminis* f.sp. *tritici* Race *UG99*. (~~3-29-10~~) ( )



## IDAPA 02 - DEPARTMENT OF AGRICULTURE

### 02.06.22 - NOXIOUS WEED RULES

DOCKET NO. 02-0622-1301

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-2403, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2013.

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

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

Amend Section 100.01, Statewide EDRR Noxious Weed List, to add one species: Water Hyacinth, *Eichhornia crassipes*.

Remove Section 100.04, Statewide Monitor List, from the Rules Governing Noxious Weeds.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 5, 2013, Idaho Administrative Bulletin, [Vol. 13-6, Page 24](#). Negotiated rulemaking meetings were held at the Idaho State Department of Agriculture on June 12 and 26, 2013; there were no visitors in attendance at the meeting, nor were any comments received.

**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 Matt Voile, Section Manager, (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Matt Voile and must be delivered on or before August 28, 2013. Comments can be delivered via email to [matt.voile@agri.idaho.gov](mailto:matt.voile@agri.idaho.gov) or via regular mail to Matt Voile's attention at the address listed below.

DATED this 3rd day of July, 2013

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

**THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 02-0622-1301**

**100. NOXIOUS WEEDS - DESIGNATIONS.**

The weeds listed on the Statewide EDRR, Containment, and Control lists- are hereby officially designated and published as noxious. (3-30-07)

**01. Statewide EDRR Noxious Weed List.**

Common Name		Scientific Name	
1.	Brazilian Elodea	1.	<i>Egeria densa</i>
2.	Common/European Frogbit	2.	<i>Hydrcharis morsus-ranae</i>
3.	Fanwort	3.	<i>Cobomba caroliniana</i>
4.	Feathered Mosquito Fern	4.	<i>Azolla pinnata</i>
5.	Giant Hogweed	5.	<i>Heracleum mantegazzianum</i>
6.	Giant Salvinia	6.	<i>Salvinia molesta</i>
7.	Hydrilla	7.	<i>Hydrilla verticillata</i>
8.	Policeman's Helmet	8.	<i>Impatiens glandulifera</i>
9.	Squarrose Knapweed	9.	<i>Centaurea triumfetti</i>
10.	Syrian Beancaper	10.	<i>Zygophyllum fabago</i>
11.	Tall Hawkweed	11.	<i>Hieracium piloselloides</i>
12.	Variable-Leaf-Milfoil	12.	<i>Myriophyllum heterophyllum</i>
13.	Water Chestnut	13.	<i>Trapa natans</i>
<del>14.</del>	<del>Water Hyacinth</del>	<del>14.</del>	<del><i>Eichhornia crassipes</i></del>
<del>14</del> 5.	Yellow Devil Hawkweed	<del>14</del> 5.	<i>Hieracium glomeratum</i>
<del>15</del> 6.	Yellow Floating Heart	<del>15</del> 6.	<i>Nymphoides pelata</i>

If any of the above listed plants (Subsection 100.01) are found to occur in Idaho, they shall be reported to the Department within ten (10) days following positive identification by the University of Idaho or other qualified authority as approved by the Director. These weeds shall be eradicated during the same growing season as identified. (3-29-10)( )

**02. Statewide Control Noxious Weed List.**

Common Name		Scientific Name	
1.	Black Henbane	1.	<i>Hyoscyamus niger</i>
2.	Bohemian Knotweed	2.	<i>Polygonum X bohemicum</i>
3.	Buffalobur	3.	<i>Solanum rostratum</i>
4.	Common Crupina	4.	<i>Crupina vulgaris</i>
5.	Common Reed (Phragmites)	5.	<i>Phragmites australis</i>

<b>Common Name</b>		<b>Scientific Name</b>	
6.	Dyer's Woad	6.	<i>Isatis tinctoria</i>
7.	Eurasian Watermilfoil	7.	<i>Myriophyllum spicatum</i>
8.	Giant Knotweed	8.	<i>Polygonum sachalinense</i>
9.	Japanese Knotweed	9.	<i>Polygonum cuspidatum</i>
10.	Johnsongrass	10.	<i>Sorghum halepense</i>
11.	Matgrass	11.	<i>Nardus stricta</i>
12.	Meadow Knapweed	12.	<i>Centaurea debeauxii</i>
13.	Mediterranean Sage	13.	<i>Salvia aethiopsis</i>
14.	Musk Thistle	14.	<i>Carduus nutans</i>
15.	Orange Hawkweed	15.	<i>Hieracium aurantiacum</i>
16.	Parrotfeather Milfoil	16.	<i>Myriophyllum aquaticum</i>
17.	Perennial Sowthistle	17.	<i>Sonchus arvensis</i>
18.	Russian Knapweed	18.	<i>Acroptilon repens</i>
19.	Scotch Broom	19.	<i>Cytisus scoparius</i>
20.	Small Bugloss	20.	<i>Anchusa arvensis</i>
21.	Vipers Bugloss	21.	<i>Echium vulgare</i>
22.	Yellow Hawkweed	22.	<i>Hieracium caespitosum</i>

Weeds listed in the control list are known to exist in varying populations throughout the state. The concentration of these weeds is at a level where control and/or eradication may be possible. A written plan for weeds on the Statewide Control Noxious Weed List shall be developed by the control authority that specifies active control methods to reduce known populations in not more than five (5) years. The plan shall be available to the Department upon request.

(3-29-10)

**03. Statewide Containment Noxious Weed List.**

<b>Common Name</b>		<b>Scientific Name</b>	
1.	Canada Thistle	1.	<i>Cirsium arvense</i>
2.	Curlyleaf Pondweed	2.	<i>Potamogeton crispus</i>
3.	Dalmatian Toadflax	3.	<i>Linaria dalmatica ssp. dalmatica</i>
4.	Diffuse Knapweed	4.	<i>Centaurea diffusa</i>
5.	Field Bindweed	5.	<i>Convolvulus arvensis</i>
6.	Flowering Rush	6.	<i>Butomus umbellatus</i>
7.	Hoary Alyssum	7.	<i>Berteroa incana</i>
8.	Houndstongue	8.	<i>Cynoglossum officinale</i>
9.	Jointed Goatgrass	9.	<i>Aegilops cylindrica</i>
10.	Leafy Spurge	10.	<i>Euphorbia esula</i>
11.	Milium	11.	<i>Milium vernale</i>

Common Name		Scientific Name	
12.	Oxeye Daisy	12.	<i>Leucanthemum vulgare</i>
13.	Perennial Pepperweed	13.	<i>Lepidium latifolium</i>
14.	Plumeless Thistle	14.	<i>Carduus acanthoides</i>
15.	Poison Hemlock	15.	<i>Conium maculatum</i>
16.	Puncturevine	16.	<i>Tribulus terrestris</i>
17.	Purple Loosestrife	17.	<i>Lythrum salicaria</i>
18.	Rush Skeletonweed	18.	<i>Chondrilla juncea</i>
19.	Saltcedar	19.	<i>Tamarix sp.</i>
20.	Scotch Thistle	20.	<i>Onopordum acanthium</i>
21.	Spotted Knapweed	21.	<i>Centaurea stoebe</i>
22.	Tansy Ragwort	22.	<i>Senecio jacobaea</i>
23.	White Bryony	23.	<i>Bryonia alba</i>
24.	Whitetop (Hoary Cress)	24.	<i>Cardaria draba</i>
25.	Yellow Flag Iris	25.	<i>Iris pseudocorus</i>
26.	Yellow Starthistle	26.	<i>Centaurea solstitialis</i>
27.	Yellow Toadflax	27.	<i>Linaria vulgaris</i>

Weeds listed in the containment noxious weeds list are known to exist in various populations throughout the state. Weed control efforts may be directed at reducing or eliminating new or expanding weed populations while known and established weed populations, as determined by the weed control authority, may be managed by any approved weed control methodology, as determined by the weed control authority. (3-29-10)

**04. Statewide Monitor List.**

Common Name		Scientific Name	
4.	<i>Water Hyacinth</i>	4.	<i>Echhorinia crassipes</i>

(3-29-10)

~~*α. Plants listed on the statewide monitor list are not designated as noxious weeds. The Department will investigate plants listed on the statewide monitor list to determine if the plant should be designated as a noxious weed. Plants may be placed on the statewide monitor list for any of the following criteria: (3-29-10)*~~

~~*i. There is reason to believe this species is invasive or poses a potential threat to Idaho due to damage caused by the species in other states or biological conditions which may allow the escape and survival of this species in Idaho. (3-29-10)*~~

~~*ii. The species exists in an adjacent state or province. (3-29-10)*~~

~~*iii. The species is on an adjacent state or province's noxious weed list. (3-29-10)*~~

~~*iv. Additional information about the species is needed on distribution, abundance or biology. (3-29-10)*~~

~~*v. There is a need to verify the presence of escaped species in Idaho, verify identification and/or*~~

~~obtain voucher specimen. (3-29-10)~~

~~vi. The species is currently available in the state through the nursery, pet, or ornamental seed/plant industry but may be closely related to current noxious/invasive species or suspected of being able to spread outside of intended sites and become escaped species. (3-29-10)~~

~~b. Native species of the state or region will not be included on the monitor list. (3-29-10)~~

**054. Designation of Articles Capable of Disseminating Noxious Weeds.** The following articles are designated by the Director as capable of disseminating noxious weeds: (7-1-93)

- a. Construction equipment, road building and maintenance equipment, and implements of husbandry. (3-30-07)
- b. Motorized vehicles such as, all-terrain vehicles, motorcycles, and other off-road vehicles and non-motorized vehicles such as bicycles and trailers. (3-30-07)
- c. Grain and seed. (7-1-93)
- d. Hay, straw and other material of similar nature. (7-1-93)
- e. Nursery stock including plant material propagated for the support of aquarium, pet, or horticultural activities. (3-30-07)
- f. Feed and seed screenings. (7-1-93)
- g. Fence posts, fencing and railroad ties. (7-1-93)
- h. Sod. (7-1-93)
- i. Manure, fertilizers and material of similar nature. (7-1-93)
- j. Soil, sand, mulch, and gravel. (3-30-07)
- k. Boats, personal watercraft, watercraft trailers, and items of a similar nature. (3-30-07)

## IDAPA 02 - DEPARTMENT OF AGRICULTURE

### 02.06.23 - RULES GOVERNING NOXIOUS WEED FREE GRAVEL AND ROCK PRODUCTS

#### DOCKET NO. 02-0623-1301 (NEW CHAPTER)

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-2403, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2013.

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

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

The proposed new rule will provide for inspection and certification of gravel as noxious weed free.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 5, 2013 Idaho Administrative Bulletin, [Vol. 13-6, Page 25](#). Negotiated rulemaking meetings were held at the Idaho State Department of Agriculture on June 12 and June 26, 2013; there were no visitors in attendance at the meeting, nor were any comments received.

**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 Matt Voile, Section Manager, (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Matt Voile and must be delivered on or before August 28, 2013. Comments can be delivered via email to [matt.voile@agri.idaho.gov](mailto:matt.voile@agri.idaho.gov) or via regular mail to Matt Voile's attention at the address listed below.

DATED this 5th day of July, 2013.

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

**THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 02-0623-1301**

**IDAPA 02**  
**TITLE 06**  
**CHAPTER 23**

**02.06.22 - RULES GOVERNING NOXIOUS WEED FREE GRAVEL AND ROCK PRODUCTS**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Sections 22-101(3), 22-2403, Idaho Code. ( )

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is the “Rules Governing Noxious Weed Free Gravel and Rock Products.” ( )

**02. Scope.** These rules shall govern the inspection and certification of noxious weed free gravel and rock products to allow for the transportation and use of gravel and rock products in Idaho and states where regulations and restrictions are placed on such commodities. The official citation of this chapter is IDAPA 02.06.23.000 et seq. For example, the citation for this section is IDAPA 02.06.23.001. ( )

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. ( )

**003. ADMINISTRATIVE APPEALS.**

There is no provision for administrative appeals before the Department of Agriculture under this chapter. ( )

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference in this chapter. ( )

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

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

**02. Mailing Address.** The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. ( )

**03. Street Address.** The central office is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. ( )

**006. PUBLIC RECORDS.**

The records associated with this chapter are subject to Title 9, Chapter 3, Idaho Code. ( )

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

**010. DEFINITIONS.**

The definitions found in Section 22-2402, Idaho Code, apply to this chapter. In addition, as used in this chapter: ( )

**01. Agent.** Any instrumentality or entity authorized by the Director of the Department, and acting on

behalf of the Department, to administer the provisions of this rule. Any designated agent shall act in an official capacity for the Department and under the supervision of the Director of the Department. The principal purpose of the agent is to establish, conduct, and maintain a uniform and reasonable system of inspection and certification of gravel and rock products to determine if such products are noxious weed free. ( )

**02. Approved Inspector.** An individual who has been accredited by the Department or by the Department's agent in the noxious weed free gravel and rock products certification program. ( )

**03. Certificate of Inspection.** A record of inspection issued by an approved inspector that states the results of a Pit/Pile/Lot inspection. ( )

**04. Certification.** The process whereby an approved inspector conducts pit or pile inspections to determine that the pit or pile is noxious weed free. ( )

**05. Department.** The Idaho State Department of Agriculture. ( )

**06. Gravel.** Unconsolidated rock fragments that have a general **particle** size range and include size classes from granule to **boulder-sized** fragments. ( )

**07. Pile.** A stockpile of crushed or processed rock. ( )

**08. Pit.** A natural or artificial hole or cavity in the ground. An excavation for the removal of mineral deposits. ( )

**09. Pit/Pile/Lot Certification Inspection.** An on-site inspection of gravel or rock products in the Pits, Piles or Lots and adjacent areas for the presence of noxious weeds. ( )

**10. Idaho State Noxious Weed Free.** Gravel and rock products inspected for weeds designated by the Director as noxious as defined in Section 22-2402(15), Idaho Code, and determined to be free of such weeds. ( )

**11. Lot.** A pile of gravel or rock product having specific quantity and or boundaries. ( )

**12. North American Noxious Weed Free.** Gravel and rock products inspected for and determined to be free of weeds designated as noxious by the Director as defined in Section 22-2402(15), Idaho Code, and noxious weeds listed on the North American Weed List. ( )

**13. North American Weed Free Gravel Certification Program.** The North American Weed Management Association standard for gravel and rock products certification. ( )

**14. Noxious Weed Free.** No noxious weeds with viable seed, injurious portions, or propagating parts were found during inspection procedures. ( )

**15. Rock Products.** Byproducts of measured sizes of gravel crushed from blasted or dug rock, such as sand, chips, fines or other terms exclusive of topsoil or overburden. ( )

**16. Transit Certificate.** A document completed by an approved inspector to certify products proposed for movement as certified noxious weed free into states that require noxious weed free gravel and rock products certification. The transit certificate must be in the possession of the transporter. ( )

**011. ABBREVIATIONS.**

**01. ISDA.** The Idaho State Department of Agriculture. ( )

**02. NAWMA.** North American Weed Management Association. ( )

**03. NWFGRP.** Noxious Weed Free Gravel and Rock Products. ( )

**012. -- 099. (RESERVED)**

**100. VOLUNTARY NOXIOUS WEED FREE GRAVEL AND ROCK PRODUCTS CERTIFICATION PROGRAM.**

**01. Purpose.** The noxious weed free gravel and rock products certification program is a voluntary program, the purpose of which is to provide a means for the inspection and certification of gravel and rock products as noxious weed free. The program will be managed by the Department and may be implemented through an agent of the Department. The program will allow for the preparation of a transit certificate for the purpose of interstate transport or shipping of gravel and rock products into and through states which place regulations and restrictions on such products. The program is intended to reduce the exportation, importation, growth, and spread of noxious weeds. ( )

**02. Certifying Authority.** The Department or its agent is the certifying authority. The certifying authority shall appoint, as needed, approved inspectors throughout the state, who may issue certificates of inspection. ( )

**03. Certification Training.** The Department shall determine minimum training and accreditation standards for approved inspectors. Training will be provided annually by the Department or its agent. Attendance at annual training will certify accreditation for the inspector for that calendar year. Approved inspectors will be issued a certificate of training for the calendar year. Annual training shall include: ( )

- a. Pit/Pile/Lot inspection techniques and procedures; ( )
- b. ISDA and North American Noxious Weed List plant identification; ( )
- c. ISDA and North American Weed Free Gravel Certification Program; ( )
- d. Knowledge of weed management, including: ( )
  - i. Burning; ( )
  - ii. Mechanical methods or roguing; ( )
  - iii. Herbicides. ( )
- e. Inspection forms. ( )

**04. Certification Program.** ( )

- a. The Department or its agent shall: ( )
  - i. Train persons who serve as approved inspectors; ( )
  - ii. Issue Certificates of Inspection and/or Transit Certificates to qualifying participants; ( )
  - iii. Maintain a record of inspections performed and certificates issued. ( )
- b. Under the direction of the Department or its agent, an approved inspector may perform inspections and issue Certificates of Inspection and/or Transit Certificates within the state. ( )

**05. Application for Certification.** ( )

- a. Application for certification shall be made on forms available from the Department or its agent and submitted to the Department or its agent. ( )
- b. An applicant's signature on the application for certification is verification of the accuracy of the

information submitted, and signifies the applicant's intent to comply with the post-certification and distribution requirements. ( )

**06. Pit/Pile/Lot Inspection Procedures.** ( )

**a.** Gravel or rock products shall be inspected no more than ten (10) days prior to shipping or loading in the Pit/Pile/Lot of origin for each Pit/Pile/Lot to be certified. ( )

**b.** Each Pit/Pile/Lot inspected shall be identified by the name of the owner and a Pit/Pile/Lot name or number. The certification inspection may be performed on an entire Pit/Pile/Lot or a portion of a Pit/Pile/Lot, if the portion is plainly marked and identified prior to inspection. ( )

**c.** Pit/Pile/Lot inspections must take place prior to any operation that will limit the approved inspector's ability to properly inspect and certify the Pit/Pile/Lot. A Pit/Pile/Lot that has been moved or loaded prior to inspection is ineligible for certification. ( )

**d.** The entire Pit/Pile/Lot and border shall be physically inspected. ( )

**e.** The Pit/Pile/Lot inspection will include all ditches, fence rows, roads, easements, rights-of-way, or buffer zones surrounding the Pit/Pile/Lot. ( )

**f.** Gravel or rock products which contain any noxious weeds, as identified in Section 22-2402(15), Idaho Code, or noxious weeds listed on the North American Noxious Weed List, may be certified if the following requirements are met: ( )

**i.** Pit/Pile/Lot in which the gravel or rock products were produced was treated to prevent seed formation or seed ripening to the degree that there is no danger of dissemination of the seed, or any injurious portion thereof from such noxious weeds, or undesirable plant species, or the propagating parts of the plant are not capable of producing a new plant; ( )

**ii.** Noxious weed(s) were treated not later than rosette to bud stage, or boot stage for grass species classified as noxious weeds; and ( )

**iii.** Treatment methods can include, but are not limited to burning, roguing, mechanical methods, or chemicals. ( )

**g.** An inspection certificate shall document that the above requirements have been met. ( )

**h.** Interstate shipment of gravel and rock products shall be accompanied by an original transit certificate issued by the approved inspector in the county of origin. The storage area shall also be inspected and shall be free of noxious weeds. ( )

**i.** An approved inspector may not inspect any Pit/Pile/Lot of which said inspector has ownership or financial interest. ( )

**07. Certification Standards.** After completing an inspection the approved inspector shall complete a Certificate of Inspection. ( )

**a.** If the Pit/Pile/Lot is certified as North American Noxious Weed Free, the approved inspector shall issue a Certificate of Inspection for that Pit/Pile/Lot. If the Pit/Pile/Lot contains North American Noxious Weeds, but does not contain Idaho State noxious weeds, it may be certified as Idaho State Noxious Weed Free, and such certification shall be noted on the Certificate of Inspection. ( )

**b.** If the Pit/Pile/Lot is certified as North American Noxious Weed Free, as defined in these rules, the approved inspector may also issue, upon request, a Transit Certificate. ( )

**c.** Certificates of Inspection and Transit Certificates shall be on forms prescribed by the Department

or its agent. ( )

d. Certificates of Inspection are valid for a maximum of thirty (30) days. ( )

**08. Copy of Inspections and a List of Approved Inspectors.** Upon request, the agent shall provide the Department with a copy of Certificates of Inspections issued and a current list of approved inspectors. ( )

**09. Reciprocity.** Gravel or rock products certified under a reciprocal agreement between the Department and another state, and certified as North American Noxious Weed Free according to the other state's approved certification standards, may be shipped into the state of Idaho and shall be considered to meet the requirements of the Idaho program. ( )

**10. Exports.** Certification under these rules does not qualify a product for export from the United States. Applications for certification for export may be made directly to the Division of Plant Industries within the Department. ( )

**11. Voluntary Posting.** After certification, signs or other forms of notification may be posted on the certified product indicating that the product is certified as noxious weed free. ( )

**12. Post-Certification and Distribution Requirements.** After a gravel or rock product has been inspected and certified: ( )

a. Reasonable and prudent steps must be taken to protect the certified product from contamination; ( )

b. The certified product must be separated from all uncertified product; ( )

c. Each shipper, trucker, or transporter must have the appropriate Transit Certificates. ( )

**13. Cancellation for Failure to Comply.** Any person who provides false information on an application for inspection or who fails to comply with the post-certification and distribution requirements may, upon order of the Director, be suspended for a period of up to two (2) years from participating in the gravel and rock products program. ( )

**14. Enforcement and Cancellation.** Gravel or rock products from certified Pits/Piles/Lots may be checked at any time by an approved inspector. Manufactured gravel or rock products may be checked at any time by an approved inspector. Gravel or rock products from a certified Pit/Pile/Lot which has not been protected from contamination shall be cause for cancellation of certification. ( )

**15. Misuse of Transit Certificate and Certification Markings.** Using a Transit Certificate or certification marking for gravel or rock products from a Pit/Pile/Lot that has not been certified shall constitute a violation of these rules. ( )

**101. -- 149. (RESERVED)**

**150. NORTH AMERICAN NOXIOUS WEED LIST.**

Common Name	Scientific Name
Absinth wormwood	<i>Artemisia absinthium</i>
Bermudagrass	<i>Cynodon dactylon</i>
Buffalobur	<i>Solanum rostratum</i>
Canada thistle	<i>Cirsium arvense</i>

Common Name	Scientific Name
Common burdock	<i>Arctium minus</i>
Common crupina	<i>Crupina vulgaris</i>
Common tansy	<i>Tanacetum vulgare</i>
Dalmatian toadflax	<i>Linaria dalmatica</i>
Diffuse knapweed	<i>Centaurea diffusa</i>
Dyers woad	<i>Isatis tinctoria</i>
Field bindweed	<i>Convolvulus arvensis</i>
Hemp (marijuana)	<i>Cannabis sativa</i>
Henbane, Black	<i>Hyoscyamus niger</i>
Hoary cress	<i>Cardaria spp.</i>
Horsenettle	<i>Solanum carolinense</i>
Houndstongue	<i>Cynoglossum officinale</i>
Johnsongrass	<i>Sorghum halepense</i>
Jointed goatgrass	<i>Aegilops cylindrica</i>
Leafy spurge	<i>Euphorbia esula</i>
Matgrass	<i>Nardus stricta</i>
Meadow knapweed	<i>Centaurea pratensis</i>
Medusahead	<i>Taeniatherum caput-medusae</i>
Milium	<i>Milium vernale</i>
Musk thistle	<i>Carduus nutans</i>
Orange hawkweed	<i>Hieracium aurantiacum</i>
Oxeye daisy	<i>Chrysanthemum leucanthemum</i>
Perennial pepperweed	<i>Lepidium latifolium</i>
Perennial sorghum	<i>Sorghum almum</i>
Perennial sowthistle	<i>Sonchus arvensis</i>
Plumeless thistle	<i>Carduus acanthoides</i>
Poison hemlock	<i>Conium maculatum</i>
Puncturevine	<i>Tribulus terrestris</i>
Purple loosestrife	<i>Lythrum salicaria</i>
Quackgrass	<i>Agropyron repens</i>
Rush skeletonweed	<i>Chondrilla juncea</i>
Russian knapweed	<i>Centaurea repens</i>
Scentless chamomile	<i>Matricaria perforata</i> or <i>M. milaceum</i>
Scotch broom	<i>Cytisus scoparius</i>

<b>Common Name</b>	<b>Scientific Name</b>
Scotch thistle	<i>Onopordum acanthium</i>
Sericea Lespedeza	<i>Lespedeza cuneata</i>
Silverleaf nightshade	<i>Solanum elaeagnifolium</i>
Skeletonleaf bursage	<i>Ambrosia tomentosa</i>
Spotted knapweed	<i>Centaurea maculosa</i>
Squarrose knapweed	<i>Centaurea virgata</i>
St. Johnswort	<i>Hypericum perforatum</i>
Sulfur cinquefoil	<i>Potentilla recta</i>
Syrian beancaper	<i>Zygophyllum fabago</i>
Tansy ragwort	<i>Senecio jacobaea</i>
Toothed spurge	<i>Euphorbia dentata</i>
Wild oats	<i>Avena fatua</i>
Wild proso millet	<i>Panicum miliaceum</i>
Yellow hawkweed	<i>Hieracium pratense</i>
Yellow starthistle	<i>Centaurea solstitialis</i>
Yellow toadflax	<i>Linaria vulgaris</i>

( )

**151. -- 999. (RESERVED)**

# **IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

## **08.01.05 - IDAHO PROMISE SCHOLARSHIP PROGRAM**

### **DOCKET NO. 08-0105-1301 (CHAPTER REPEAL)**

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

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-105, Idaho Code, and Title IV, Part a, Subpart 4 of the Higher Education Act of 1955.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2013.

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:

During the 2013 Legislature SB 1027 was passed consolidating the majority of the state run scholarship programs. The proposed change repeals this entire chapter of Administrative Rule.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: Funds previously allocated to this program will be redirected to the Opportunity Scholarship Program.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2013 Idaho Administrative Bulletin, [Volume 13-7, page 27](#).

**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 Tracie Bent, Chief Planning and Policy Officer, at (208)332-1582 or [tracie.bent@osbe.idaho.gov](mailto:tracie.bent@osbe.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 28, 2013.

DATED the 7th day of June, 2013.

Tracie Bent, Chief Planning and Policy Officer  
Office of the State Board of Education  
650 W State St.  
PO Box 83720  
Boise, ID 83720-0037  
(208)332-1582, fax: (208)334-2632

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**IDAPA 08.01.05 IS BEING REPEALED IN ITS ENTIRETY**

# **IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

## **08.01.06 - LEVERAGING EDUCATION ASSISTANCE PARTNERSHIP PROGRAM**

### **DOCKET NO. 08-0106-1301 (CHAPTER REPEAL)**

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

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-105, Idaho Code, and Title IV, Part a, Subpart 4 of the Higher Education Act of 1955.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2013.

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:

During the 2013 Legislature SB 1027 was passed consolidating the majority of the state run scholarship programs. The proposed change repeals this entire chapter of Administrative Rule.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: Funds previously allocated to this program will be redirected to the Opportunity Scholarship Program.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2013 Idaho Administrative Bulletin, [Volume 13-7, page 28](#).

**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 Tracie Bent, Chief Planning and Policy Officer, at (208)332-1582 or [tracie.bent@osbe.idaho.gov](mailto:tracie.bent@osbe.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 28, 2013.

DATED the 7th day of June, 2013.

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Office of the State Board of Education  
650 W State St.  
PO Box 83720  
Boise, ID 83720-0037  
(208)332-1582, fax: (208)334-2632

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**IDAPA 08.01.06 IS BEING REPEALED IN ITS ENTIRETY**

# IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

## 08.01.09 - RULES GOVERNING THE GEAR UP IDAHO SCHOLARSHIP PROGRAM

DOCKET NO. 08-0109-1301

### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-105, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2013.

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:

During the 2013 Legislature SB 1027 was passed consolidating the majority of the state run scholarship programs. As part of the review and evaluation process prior to the consolidation of the state funded scholarships it was discovered that there were some technical errors contained in the Administrative rule governing the GEARUP Scholarship program. The GEARUP Scholarship is available to students who participated in the GEARUP program's early intervention component in grades 7 through 10. Specific changes include clarifying the definition of Educational Costs, when a student may apply, aligning the application date with the timeframe students complete the FAFSA, and removing unnecessary language regarding the reassignment of funds.

**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: There will be no fiscal impact from these changes.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2013 Idaho Administrative Bulletin, [Volume 13-7, page 29](#).

**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 Tracie Bent, Chief Planning and Policy Officer, at (208)332-1582 or [tracie.bent@osbe.idaho.gov](mailto:tracie.bent@osbe.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 28, 2013.

DATED the 7th day of June, 2013.

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(208)332-1582, fax: (208)334-2632

THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 08-0109-1301

010. DEFINITIONS.

01. **Dependable Strengths Report.** A tool available on the Idaho Career Information System that assists students in assessing skills and abilities as they relate to career choices and options. Dependable Strengths is accessed via My CIS Portfolio. (3-29-12)

02. **Educational Costs.** Student costs for tuition, fees, room and board, or expenses related to reasonable commuting, books and other expenses reasonably related to attendance a postsecondary educational institution. This cost is determined by the postsecondary institution the student attends and is the institutions published cost of attendance for the academic year for which the student is attending. (~~3-29-12~~)( )

03. **Eligible Institution.** (3-29-12)

a. A public postsecondary educational institution governed or supervised by the Board, or a board of trustees of a community college established pursuant to the provisions of Chapter 21, Title 33, Idaho Code; or (3-29-12)

b. Any educational organization located in Idaho that is: (3-29-12)

i. Operated privately and; (~~3-29-12~~)( )

ii. Classified as not-for-profit under ~~the~~ Idaho Code; and (~~3-29-12~~)( )

iii. Under the control of an independent board and not directly controlled or administered by a public or political subdivision; and (3-29-12)

iv. Accredited by an organization recognized by the Board, as provided in section 33-2402, Idaho Code. (3-29-12)

v. Eligible for receipt of federal financial aid funding. (3-29-12)

04. **Eligible Student.** A student who: (3-29-12)

a. Is an Idaho resident and who has participated in the early intervention component (7th through 10th grade) of the GEAR UP Idaho program and who has or will graduate from an accredited high school or equivalent in Idaho as determined by the Board in 2012, 2013, or 2014; (3-29-12)

b. Has enrolled or applied as a full-time student in an eligible institution for a minimum of twenty-four (24) credit hours in an academic year. (3-29-12)

05. **Administrator.** The Executive Director of the Idaho State Board of Education or his designee. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

200. APPLICATION PROCESS.

01. **Initial Applications.** (3-29-12)

a. An eligible student ~~who has not yet graduated from an accredited high school or its equivalent in the state of Idaho~~ must complete and submit the GEAR UP Idaho Scholarship Application to the Board electronically on or before the date specified in the application, but not later than ~~January 15th~~ **March 1 of the year the student will graduate from a secondary school or its equivalent**. An applicant without electronic capabilities may receive assistance in completing the electronic application from a high school counselor or from State Board of Education scholarship staff ~~and~~. **The application** may **also** be submitted to the Gear Up Idaho Scholarship Administrator through the United States Postal Service, which must be postmarked not later than ~~January 15th~~ **March 1**. (3-29-12)(    )

b. An applicant must complete and submit the Free Application for Federal Student Aid (FAFSA) on or before ~~February 15th~~ **March 1** of the year student will graduate from secondary school or its equivalent. (3-29-12)(    )

c. An applicant must submit with his or her application a copy of the applicant's Dependable Strengths Report or in lieu of submitting the applicant's Dependable Strengths Report an applicant may submit a one-page essay on the topic "My Unique Dependable Strengths." (3-29-12)

**02. Announcement of Award.** Announcement of ~~the~~ award ~~of initial scholarships for the 2012–2013 academic year will be made no later than May 15, 2012, with awards to be effective at the beginning of that academic year. The announcement of award recipients in future academic years~~ **recipients** will be made no later than May 1. (3-29-12)(    )

**03. Communication with State Officials.** Applicants for initial scholarships must respond by the date specified to any communication from officials of the GEAR UP Idaho Program. Failure to respond within the time period specified will result in cancellation of the application or forfeiture of the scholarship unless extenuating circumstances are involved. (3-29-12)

**201. -- 299. (RESERVED)**

**300. SELECTION OF SCHOLARSHIP RECIPIENTS.**

Applications will be reviewed and awards selected based on financial need, hours of participation in the GEAR UP program and academic preparation based on a combination of the ACT **composite or SAT combined reading and math** score and cumulative high school grade point average (GPA). Priority will be given to applicants who are eligible to receive Pell grant funding, as determined by the Free Application for Federal Student Aid (FAFSA). (3-29-12)(    )

**01. Academic Eligibility.** (3-29-12)

a. Applicants for the GEAR UP Idaho scholarship are selected as recipients, in part, on the basis of their academic performance. The student applicant's high school GPA and ACT composite **or SAT combined reading and math** score are weighed equally to determine an applicant's academic rank. (3-29-12)(    )

b. The academic ranking constitutes twenty percent (20%) of the selection ranking. (3-29-12)

c. Grade point average (GPA). An eligible student's unweighted GPA will be used to determine the GPA value. (3-29-12)

d. ACT Composite **or SAT combined reading and math** Score. Academic applicants must take the ACT **or SAT reading and math** exam. The highest composite score from any single test administration taken prior to the application deadline ~~of January 15~~ will be considered. ~~Applicants will be ranked against other applicants based upon the ACT composite score.~~ (3-29-12)(    )

**02. Financial Eligibility.** (3-29-12)

a. Applicants for GEAR UP Idaho scholarship are selected as recipients, in part, on the basis of demonstrated financial need. The primary tool that will be used by the GEAR UP Scholarship Program officials to determine financial need will be the federal FAFSA, used by the United States Department of Education to determine eligibility for financial aid and an expected family's contribution (EFC) to a student's postsecondary education. The

financial need of an applicant for a GEAR UP scholarship will be based upon the validated expected family contribution, as identified by the FAFSA report. (3-29-12)

**b.** The financial need factor, as determined by FAFSA, will constitute sixty percent (60%) of the weighting for the selection of recipients of GEAR UP scholarships. (3-29-12)

**03. Participation Eligibility.** (3-29-12)

**a.** Applicants for GEAR UP Idaho scholarships are selected in part on the basis of their participation in GEAR UP activities. (3-29-12)

**b.** The participation factor will constitute twenty percent (20%) of the selection ranking. (3-29-12)

**c.** Participation is reported in hours. Participation is determined based upon the hours a GEAR UP applicant participated in available GEAR UP early intervention program activities offered at their school. Applicants will be compared to other applicants from the same school. GEAR UP participation hours shall be provided by the GEAR UP school the student participated in. (3-29-12)(    )

**301. -- 399. (RESERVED)**

**400. GEAR UP IDAHO SCHOLARSHIP AWARD.**

**01. Distribution.** GEAR UP Idaho scholarships will be awarded at each GEAR UP school with distribution based on school population in relation to the over-all state GEAR UP population. (3-29-12)

**02. Monetary Value of the Gear Up Idaho Scholarship.** (3-29-12)

**a.** The monetary value of the GEAR UP Idaho scholarship award to a student is set at the maximum amount of the Federal Pell Grant as established by the Federal government for the given year. (3-29-12)

**b.** The total amount of financial aid from all sources shall not exceed the student's total educational costs. (3-29-12)

**03. Payment.** Payment of scholarship awards will be made in the name of the recipient and will be sent to a designated official at the eligible institution in which the recipient is enrolled. The official must transmit the payment to the recipient within a reasonable time following receipt of the payment. (3-29-12)

**04. Duration.** Scholarships will be awarded on an annual basis and payments will correspond to academic terms, semesters, quarters, or equivalent units. In no instance will the entire amount of a scholarship be paid in advance to, or on behalf of, a scholarship recipient. The scholarship covers up to one (1) educational year or equivalent for attendance at an eligible institution. Request for part time study must have prior authorization by the GEAR UP Idaho administrator, and if granted, scholarship awards will be reduced proportionally. (3-29-12)(    )

**05. Eligibility.** If a student receives a scholarship payment and it is later determined that the student did not meet all of the eligibility requirements, then the student is considered in overpayment status, and must return program funds in accordance with the eligible institution's refund policy. (3-29-12)

**401. -- 499. (RESERVED)**

**500. CONTINUING ELIGIBILITY.**

To remain eligible for renewal of a GEAR UP Idaho scholarship, the recipient must comply with all of the provisions of the GEAR UP Idaho Program and these rules, in addition to the following requirements: (3-29-12)

**01. Renewal Application.** A scholarship recipient must complete and submit a renewal application in order to be considered for a continuing scholarship for each succeeding year. A completed application for the renewal of a GEAR UP Idaho scholarship must be submitted to the Board electronically by the date established on the application, but not later than ~~January 30~~ March 1. An applicant without electronic capabilities may submit an

application on the form established by the GEAR UP Idaho Program administrator through the United States Postal Service, which must be postmarked no later than ~~January 30~~ March 1. In addition, a scholarship recipient must update and submit the FAFSA on or prior to ~~February 15~~ March 1. (3-29-12)( )

**02. Credit Hours.** To remain eligible for renewal of a scholarship award, the scholarship recipient must be enrolled as a full-time student and have completed a minimum of twenty-four (24) credit hours or its equivalent for the academic year in which the student received a scholarship award. ~~A student must be enrolled in full-time study each term unless prior approval by the program administrator is granted to attend part time. If a student does not receive a minimum of twelve (12) credit hours in a term, they may not receive the second semester award without seeking approval from the scholarship administrator.~~ (3-29-12)( )

**03. Satisfactory Academic Progress.** To remain eligible for renewal of a scholarship, the scholarship recipient must have maintained a minimum cumulative grade point average of two point zero (2.0) on a scale of four point zero (4.0) during the time that the recipient received an award, and must be maintaining satisfactory academic progress, consistent within federal financial regulations as implemented at the eligible Idaho postsecondary educational institution at which the scholarship recipient was enrolled. (3-29-12)

**04. Transfer Students.** Scholarship recipients who transfer to another eligible institution remain eligible for scholarship renewal and must inform the administrator no later than March 1 following the transfer. (3-29-12)( )

**05. Maximum Scholarship Award.** The award of a GEAR UP Idaho scholarship shall not exceed the equivalent of eight (8) continuous semesters or the equivalent of four (4) continuous academic years. (3-29-12)

501.--- 599. (RESERVED)

**600. MISCELLANEOUS PROVISIONS.**

~~**01. Interruption of Enrollment.** A scholarship recipient who requests to take leave from and interrupt enrollment at an eligible institution must submit a letter of intent to interrupt continuous enrollment to the GEAR UP Idaho administrator no later than sixty (60) days prior to the first day of the academic term of the discontinued attendance. Requests can only be made after the completion of one (1) full academic year. Failure to do so may result in forfeiture of any continuing scholarship eligibility. The administrator will review each request for interruption and notify the individual of approval or denial of the request. In addition, the individual must file a statement with the administrator declaring his intent to re-enroll as a full-time undergraduate student at an eligible institution for the succeeding academic year no later than thirty (30) days prior to the first day of the academic term in which the individual intends to re-enroll. If a leave request is granted, the total time that the scholarship will be available to the student shall not exceed the four (4) academic years immediately following the student's graduation from secondary school or its equivalent.~~ (3-29-12)( )

~~**02. Reassignment of Scholarships in Case of Discontinuance or Termination.** If a scholarship recipient enrolled in an eligible institution permanently withdraws or is dismissed prior to completion of his or her four (4) academic year scholarship eligibility term, then the GEAR UP Idaho administrator may award the scholarship to another eligible GEAR UP applicant (an alternate recipient) in the same application year. If there are no other alternates from that year, then the administrator may award the scholarship to another qualifying GEAR UP applicant. In the event that an award is made to an alternate recipient, then this new student shall assume the vacant scholarship of the Idaho GEAR UP student who has withdrawn or was dismissed. However, such student shall only receive the benefits of this scholarship for the remaining years of eligibility for the GEAR UP scholarship recipient who withdrew or was dismissed prior to completion of the scholarship eligibility term.~~ (3-29-12)

~~**03. Reassignment in Case of Leave of Absence.** If a GEAR UP scholarship recipient enrolled in an eligible institution requests and is granted a leave of absence during his or her four (4) academic year scholarship eligibility term, then the GEAR UP Idaho administrator may award the scholarship to another eligible GEAR UP applicant (an alternate recipient) from the same application year for the duration of the leave period. If there are no other alternates from that year, then the administrator may award the scholarship to another qualifying GEAR UP applicant. In the event that an award is made to an alternate recipient, then this new student shall assume the vacant scholarship of the Idaho GEAR UP student who is on an approved leave. However, such student shall only receive~~

~~the benefits of this scholarship for the term of the leave.~~ (3-29-12)

601. -- 699. (RESERVED)

**700. RESPONSIBILITIES OF ELIGIBLE IDAHO POSTSECONDARY EDUCATIONAL INSTITUTIONS.**

**01. Statements of Continuing Eligibility.** An eligible institution participating in this GEAR UP Idaho Scholarship Program must submit statements of continuing student eligibility to the ~~GEAR UP Idaho~~ administrator by the 30th day of each academic term. Such statements must include verification that the scholarship recipient is still enrolled, attending full time, maintaining satisfactory academic progress, and has not exceeded the award eligibility terms. (3-29-12)( )

**02. Other Requirements.** An eligible institution must: (3-29-12)

**a.** Be eligible to participate in Federal Title IV financial aid programs, and must provide prompt notification regarding any changes in this status to the State Board of Education; (3-29-12)

**b.** Provide data on student enrollment and federal, state, and private financial aid for students to the ~~GEAR UP Idaho~~ administrator; and (3-29-12)( )

**c.** Agree to permit periodic GEAR UP Idaho Scholarship Program audits to verify compliance with these rules. (3-29-12)

**701. ADMINISTRATION.**

The ~~GEAR UP Idaho~~ administrator is responsible for: (3-29-12)( )

**01. Information.** Releasing any public information regarding the GEAR UP Idaho Scholarship Program; (3-29-12)

**02. Recipient Determination.** Determination of scholarship recipients; (3-29-12)

**03. Payment Procedures.** Determination of procedures for payment of scholarships to recipients; (3-29-12)

**04. Accounting.** Maintaining fiscal controls and accounting procedures; (3-29-12)

**05. Program Management.** Authorizing release of all forms, affidavits, and certification necessary for the operation of the program. (3-29-12)

703. -- 799. (RESERVED)

**800. APPEALS.**

Any scholarship applicant or recipient adversely affected by a decision made under provisions of these rules may appeal such adverse decision as follows. The ~~opportunity~~ scholarship applicant or recipient must appeal in writing no later than thirty (30) days following notice of the decision, and the written statement must include a statement of the reason the scholarship applicant or recipient believes the decision should be changed. The appeal must be submitted to the ~~GEAR UP Idaho~~ administrator, who must acknowledge receipt of the appeal within seven (7) days. The ~~GEAR UP Idaho~~ administrator shall forward the appeal to the President of the Board. The Board may or may not agree to review the action, or may appoint a subcommittee of three (3) persons, including at least one (1) financial aid administrator at an eligible postsecondary educational institution in Idaho. (3-29-12)( )

**01. Transmittal to Subcommittee.** If the appeal is transmitted to the subcommittee, the subcommittee will review the appeal and submit a written recommendation to the President of the Board within fifteen (15) days from the time the subcommittee receives the appeal document. The ~~opportunity~~ scholarship applicant or recipient initiating the appeal will be notified by the chairperson of the subcommittee of the time and place when the subcommittee will consider the appeal and will be allowed to appear before the subcommittee to discuss the appeal.

~~(3-29-12)~~( )

**02. Subcommittee Recommendations.** Following the subcommittee's decision, the President of the Board will present the subcommittee's recommendation to the full Board at the next regularly scheduled meeting of the Board. The *opportunity* scholarship applicant or recipient initiating the appeal may, at the discretion of the President of the Board, be permitted to make a presentation to the Board. ~~(3-29-12)~~( )

**03. Board Decision.** The decision of the Board is final, binding, and ends all administrative remedies, unless otherwise specifically provided by the Board. The Board will inform the *opportunity* scholarship applicant or recipient in writing of the decision of the Board. ~~(3-29-12)~~( )

**801. -- 999. (RESERVED)**

**IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

**08.01.12 - IDAHO MINORITY AND "AT-RISK" STUDENT SCHOLARSHIP PROGRAM**

**DOCKET NO. 08-0112-1301 (CHAPTER REPEAL)**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 33-105, and 33-4606, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2013.

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:

During the 2013 Legislature SB 1027 was passed consolidating the majority of the state run scholarship programs. The proposed change repeals this entire chapter of Administrative Rule.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: Funds previously allocated to this program will be redirected to the Opportunity Scholarship Program.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2013 Idaho Administrative Bulletin, [Volume 13-7, page 28](#).

**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 Tracie Bent, Chief Planning and Policy Officer, at (208)332-1582 or [tracie.bent@osbe.idaho.gov](mailto:tracie.bent@osbe.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 28, 2013.

DATED the 7th day of June, 2013.

Tracie Bent, Chief Planning and Policy Officer  
Office of the State Board of Education  
650 W State St.  
PO Box 83720  
Boise, ID 83720-0037  
(208)332-1582, fax: (208)334-2632

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**IDAPA 08.01.12 IS BEING REPEALED IN ITS ENTIRETY**

# **IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

## **08.01.13 - RULES GOVERNING THE OPPORTUNITY SCHOLARSHIP PROGRAM**

**DOCKET NO. 08-0113-1301**

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

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-105, and Title 33, Chapter 46, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2013.

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:

During the 2013 Legislature SB 1027 was passed consolidating the majority of the state run scholarship programs. The proposed changes will bring the rule into alignment with the amended sections of Idaho Code. Specific changes include removing redundant language that is contained in Idaho Code, clarifying residency for tuition purposes, student eligibility, academic eligibility, and streamlining the renewal application process.

**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: There will be no fiscal impact from these changes.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2013 Idaho Administrative Bulletin, [Volume 13-7, page 32](#).

**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 Tracie Bent, Chief Planning and Policy Officer, at (208)332-1582 or [tracie.bent@osbe.idaho.gov](mailto:tracie.bent@osbe.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 28, 2013.

DATED the 7th day of June, 2013.

Tracie Bent, Chief Planning and Policy Officer  
Office of the State Board of Education  
650 W State St.  
PO Box 83720  
Boise, ID 83720-0037  
(208)332-1582, fax: (208)334-2632

THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 08-0113-1301

010. DEFINITIONS.

~~01. **Educational Costs.** Is defined in Section 33-5604(1), Idaho Code and means the dollar amount determined annually by the state board of education as necessary for student tuition, fees, room and board, books and such other expenses reasonably related to attendance at an eligible Idaho postsecondary educational institution. (4-2-08)~~

~~02. **Eligible Idaho Postsecondary Educational Institution.** Is defined in Section 33-5604(2), Idaho Code, and means:~~

~~a. A public postsecondary organization governed or supervised by the state board, the board of regents of the university of Idaho, a board of trustees of a community college established pursuant to the provisions of Chapter 21, Title 33, Idaho Code, or the state board for professional technical education; or (4-2-08)~~

~~b. Any educational organization located in Idaho which is: (4-2-08)~~

~~i. Operated privately; (4-2-08)~~

~~ii. Classified as not for profit under the Idaho Code; (4-2-08)~~

~~iii. Under the control of an independent board and not directly controlled or administered by a public or political subdivision; and (4-2-08)~~

~~iv. Accredited by an organization recognized by the state board, as provided in Section 33-2402, Idaho Code. (4-2-08)~~

~~03. **Eligible Student.** Is defined in Section 33-5604(3), Idaho Code, and means a student who: (4-2-08)~~

~~a. Is an Idaho resident; (4-2-08)~~

~~b. Has or will graduate from an accredited high school or equivalent in Idaho as determined by the state board; (4-2-08)~~

~~c. Has enrolled or applied as a full-time student to an eligible Idaho postsecondary educational institution; and (4-2-08)~~

~~d. Is pursuing an undergraduate degree, certificate, or diploma. (4-2-08)~~

~~04. **Financial Eligibility.** Is defined in Section 33-5604(4), Idaho Code, and means the extent of a person's inability to meet the educational costs associated with attending an eligible Idaho postsecondary educational institution through a model of shared responsibility, taking into account the required and expected contributions of such person's parents, family and personal resources. (4-2-08)~~

~~05. **Grade Point Average or GPA.** Means the average grade earned by a student, figured by dividing the grade points earned by the number of credits attempted. (4-2-08)~~

~~06. **Opportunity Scholarship Program.** Is defined Section 33-5604(5), Idaho Code and means the scholarship program described in Title 33, Chapter 56, Idaho Code, and these rules. (4-2-08)~~

011. -- ~~099~~100. (RESERVED)

~~100. OBJECTIVES OF THE OPPORTUNITY SCHOLARSHIP PROGRAM.~~

~~The legislature has recognized and declared an intent to create a scholarship fund to provide financial resources to Idaho students who are economically disadvantaged to close the gap between the estimated cost of attending an eligible Idaho institution of higher education and the expected student and family contribution toward such educational costs, and to encourage the educational development of such students in eligible Idaho postsecondary educational institutions. These rules set forth academic and financial eligibility requirements and other criteria for purposes of awarding opportunity scholarships.~~ (4-2-08)

101. ELIGIBILITY.

01. **Idaho Resident.** An eligible student must be an Idaho resident, as defined in Section 33-3717B or 33-2110B, Idaho Code, as applicable to the institution the student is applying to, and IDAPA 08.01.04, "Residency Classification," Subsection 005.01. (4-2-08)( )

02. **Undergraduate Student.** An eligible student must be pursuing ~~an~~ their first undergraduate certificate or degree, ~~certificate, or diploma~~. A student may have received multiple certificates or degrees as part of the natural progression towards a recognized baccalaureate degree program. A student who is enrolled in a graduate program, but who has not yet earned a baccalaureate degree, is not eligible for an opportunity scholarship. A student enrolled in an undergraduate program is eligible for consideration for an opportunity scholarship, even if some of the student's courses are at the graduate level. (4-2-08)( )

03. **Academic Eligibility.** (4-2-08)

a. Applicants for the opportunity scholarship are selected as recipients, in part, on the basis of their cumulative GPA. ~~An eligible student's GPA will constitute thirty percent (30%) of the weighting for the selection of recipients of opportunity scholarships.~~ (4-2-08)( )

b. To be eligible to apply for an opportunity scholarship, an applicant must meet minimum academic eligibility criteria, as follows: (4-2-08)

i. A student who has not yet graduated from secondary school or its equivalent in the state of Idaho must have an un-weighted minimum cumulative grade point of average of three point zero (3.0) or better on a scale of four point zero (4.0) to be academically eligible to apply for an opportunity scholarship. (4-2-08)( )

ii. A student who has obtained a general equivalency diploma must have taken the ACT assessment examination administered by the College Board (ACT), and received a minimum composite score of twenty (20) or better, or the equivalent SAT ~~f~~ assessment examination (SAT ~~f~~) with an equivalent weighted score, to be academically eligible to apply for an opportunity scholarship. (4-2-08)( )

iii. A student who has obtained a general equivalency diploma - for purposes of academic eligibility, such student's cumulative GPA will be determined by the student's ACT or SAT score, equalized to reflect a secondary school GPA. ( )

~~iii~~v. A student currently enrolled in an eligible Idaho postsecondary educational institution must have a minimum cumulative grade point average of ~~two~~ three point zero (~~2~~3.0) or better on a scale of four point zero (4.0) at such institution in order to be academically eligible to apply for an opportunity scholarship. (4-2-08)

~~e.~~ The following additional criteria shall be used to determine an eligible student's GPA: (4-2-08)

~~i.~~ A student who has not yet graduated from secondary school and who has earned more than twelve (12) credits of postsecondary academic credit - for purposes of academic eligibility, the student's GPA shall be the higher of his or her secondary school GPA, or his or her postsecondary GPA, weighted to equalize secondary and postsecondary academic performance. (4-2-08)

~~ii.~~ A student who has obtained a general equivalency diploma - for purposes of academic eligibility, such student's GPA will be determined by the student's ACT score, equalized to reflect a secondary school GPA. (4-2-08)

~~iii. A student currently enrolled in an eligible Idaho postsecondary educational institution for purposes of academic eligibility, such student's GPA will be weighted to equalize secondary and post secondary academic performance. (4-2-08)~~

**04. Financial Eligibility. (4-2-08)**

~~a.~~ Applicants for the opportunity scholarship are selected as recipients, in part, on the basis of demonstrated financial need. The primary tool that will be used by Opportunity Scholarship Program officials to determine financial need will be the federal Free Application for Federal Student Aid (FAFSA), used by the United States Department of Education to determine eligibility for financial aid and a family's expected contribution to a student's postsecondary education. The financial need of an applicant for an opportunity scholarship will be based upon the validated expected family contribution, as identified by the FAFSA report. (4-2-08)

~~b. The financial need factor, as determined by FAFSA, will constitute seventy percent (70%) of the weighting for the selection of recipients of opportunity scholarships. (4-2-08)~~

**05. Additional Eligibility Requirements. (4-2-08)**

a. A student ~~who has not yet graduated from high school, or its equivalent, in the state of Idaho~~ must be ~~at least~~ in ~~his junior~~ their last year of high school or its equivalent to ~~be eligible to~~ apply for an opportunity scholarship. (4-2-08)(    )

b. To be eligible to receive an opportunity scholarship, an eligible student must: (4-2-08)

i. Have taken the ACT assessment examination, or the equivalent SAT ~~I~~ assessment examination, or the Writing Skills, Reading Skills, and Algebra areas of the ~~ACT Compass~~ COMPASS, or ACCUPLACER examination; (4-2-08)(    )

ii. Be enrolled as a full-time student in an eligible Idaho postsecondary educational institution; and (4-2-08)(    )

iii. Be pursuing an undergraduate degree, certificate, or diploma. (4-2-08)

c. A student must accept all federal grant aid that is made available to such student to be eligible to receive an Idaho opportunity scholarship. (4-2-08)(    )

d. ~~To be eligible to receive an opportunity scholarship, the~~ A student must not be in default on a student educational loan, or owe a repayment on a federal grant, and must be in good financial standing with the opportunity scholarship program. (4-2-08)(    )

e. If a student has attempted or completed more than one hundred (100) postsecondary academic credits, then such student must identify his or her major, the required number of credits necessary for graduation in such major, and shall submit an academic transcript that contains all courses taken and all postsecondary academic credit received. A student shall not be eligible for an opportunity scholarship if: (4-2-08)

i. The student is not meeting satisfactory academic progress at the eligible Idaho postsecondary educational institution the student is attending at the time he or she applies for an opportunity scholarship; (4-2-08)

ii. The student has completed more than one hundred fifty percent (150%) of the courses and academic credit necessary to graduate in such major; or (4-2-08)

iii. The student is not within two (2) semesters of graduation in such major, based on normal academic course load. (4-2-08)

~~06. Student Responsibility. The Board will, by resolution each year, establish the annual amount of the expected student contribution toward his education through employment or other contributions (student~~

~~responsibility). It is expected that a student will contribute an amount equal to a student working a minimum of twenty (20) hours per week during the time that a postsecondary educational institution is in session, and a minimum of forty (40) hours per week during the summer recess. This expectation will be one (1) of the factors the Board will use to set the amount of student responsibility. The Board may consider other factors as well, such as summer living expenses, and transition time between the academic year and the summer, as examples. (4-2-08)~~

102. -- ~~2001.~~ (RESERVED)

~~201. APPLICATION PROCESS (EFFECTIVE JULY 1 THROUGH DECEMBER 31, 2007).~~

~~01. Initial Applications. (4-2-08)~~

~~a. An eligible student who has enrolled in an eligible Idaho postsecondary educational institution for the 2007—2008 academic year, and who completed and submitted the FAFSA on or prior to March 1, 2007, shall be eligible for consideration for an opportunity scholarship award for the 2007—2008 academic year. Eligible Idaho postsecondary educational institutions shall transmit to the Board enrolled students who meet the eligibility requirements of these rules. (4-2-08)~~

~~b. After this selection process is performed, eligible students will be contacted by Opportunity Scholarship Program officials and must agree to the terms of the program, including these rules, by signing and electronically submitting an application to the Board. (4-2-08)~~

~~02. Announcement of Award. Announcement of the award of initial scholarships for the 2007—2008 academic year will be made no later than September 30, 2007, with awards to be effective at the beginning of that academic year. (4-2-08)~~

~~03. Communication with State Officials. Applicants for initial scholarships must respond by the date specified to any communication from officials of the Opportunity Scholarship Program. Failure to respond within the time period specified will result in cancellation of the application or forfeiture of the scholarship unless extenuating circumstances are involved. (4-2-08)~~

202. APPLICATION PROCESS (~~EFFECTIVE JANUARY 1, 2008~~).

01. Initial Applications. (4-2-08)

a. An eligible student who has not yet graduated from an accredited high school or its equivalent in the state of Idaho must complete and submit the Opportunity Scholarship Program application to the Board electronically on or before the date specified in the application, but not later than March 1. An applicant without electronic capabilities may submit an application on the form established by the Board through the United States Postal Service, which must be postmarked not later than March 1. An applicant who is in his junior year must complete and submit the FAFSA 4caster on or prior to March 1 of their junior year. All applicants must complete and submit the FAFSA on or prior to March 1 of his last year of secondary school (including applicants who were secondary school juniors that previously submitted the FAFSA 4caster). (4-2-08)

b. An eligible student currently enrolled in an eligible Idaho postsecondary educational institution must complete and submit the Opportunity Scholarship Program application to the Board electronically on or before the date specified in the application, but not later than March 1. An applicant without electronic capabilities may submit an application on the form established by the Board through the United States Postal Service, which must be postmarked by March 1. A current postsecondary educational institution student must complete and submit the FAFSA on or prior to March 1. (4-2-08)

02. Announcement of Award. Announcement of the award of initial scholarships will be made no later than ~~the first business day after~~ June 15 of each year, with awards to be effective at the beginning of the first full term following July 1 of that year. Announcements must clearly state the award is part of the state's scholarship program and is funded through state appropriated funds. (4-2-08)(      )

03. Communication with State Officials. Applicants for either initial or continuing scholarships must

respond by the date specified to any communication from officials of the Opportunity Scholarship Program. Failure to respond within the time period specified will result in cancellation of the application or forfeiture of the scholarship unless extenuating circumstances are involved and approved by the state board of education executive director or designee. (4-2-08)(    )

203. -- 299. (RESERVED)

**300. SELECTION OF SCHOLARSHIP RECIPIENTS.**

**01. Selection Process.** The selection of applicants for the receipt of an opportunity scholarship will be based on the availability of funding for the Opportunity Scholarship Program. In addition, opportunity scholarships will be awarded to applicants, based on ranking and priority, in accordance with the following criteria: (4-2-08)

~~a. Applicants will be ranked to determine the eligible students with the greatest demonstrated financial need, based on the financial eligibility requirements of these rules. Then, e~~Eligible students shall be selected based on rating criteria that assigns seventy percent (70%) to financial eligibility, and thirty percent (30%) to academic eligibility. In the event that this weighted score results in a tie, an eligible student who submitted his application to the Board earliest in time will be assigned a higher rank. (4-2-08)

b. Notwithstanding Subsection 300.01.a. of these rules, the priority for the selection of recipients of opportunity scholarship awards shall be to scholarship recipients who received a previous opportunity scholarship award, and have continuing eligibility based upon financial need and other criteria provided in these rules. (4-2-08)

**02. Monetary Value of the Opportunity Scholarship.** (4-2-08)

~~a. The Board will, by resolution each year, establish the maximum annual amount that a student may receive under the Opportunity Scholarship Program. In addition, the Board will, by resolution each year,~~ establish the educational costs for attending an eligible Idaho postsecondary educational institution for purposes of the Opportunity Scholarship Program. The educational costs will be established as a not to exceed amount for each eligible Idaho postsecondary educational institution. (4-2-08)(    )

b. The monetary value of the opportunity scholarship award to a student shall be based on the educational costs for attending an eligible Idaho postsecondary educational institution, less the following: (4-2-08)

i. The amount of the assigned student responsibility, established by the Board annually; (4-2-08)

ii. The amount of federal grant aid, as identified by the federal Student Aid Report (SAR) that is known at the time of award determination; (4-2-08)(    )

iii. The amount of other financial aid awarded the student, from private or other sources. (4-2-08)

c. The amount of an opportunity scholarship award to an individual student shall not exceed the ~~maximum amount~~ educational cost established by the Board annually, and shall not exceed the actual cost of tuition at an Idaho public postsecondary educational institution, or if the student attends or will attend an Idaho private postsecondary educational institution, the average tuition or matriculation fees at Idaho's public four (4) year postsecondary educational institutions. (4-2-08)(    )

**301. OPPORTUNITY SCHOLARSHIP AWARD.**

**01. Payment.** Payment of opportunity scholarship awards will be made in the name of the recipient and will be sent to a designated official at the eligible Idaho postsecondary educational institution in which the recipient is enrolled. The official must transmit the payment to the recipient within a reasonable time following receipt of the payment. (4-2-08)

**02. Duration.** Scholarships will be awarded on an annual basis and payments will correspond to academic terms, semesters, quarters, or equivalent units. In no instance will the entire amount of a scholarship be paid in advance to, or on behalf of, a scholarship recipient. The scholarship covers up to ~~one~~ four (+4) educational years, or

eight (8) semesters or equivalent for attendance at an eligible Idaho postsecondary educational institution. Awards are contingent on annual appropriations by the legislature and continued eligibility of the student. (4-2-08)( )

**03. Eligibility.** If a student receives an opportunity scholarship payment and it is later determined that the student did not meet all of the Opportunity Scholarship Program eligibility requirements, then the student is considered in overpayment status, and must return program funds in accordance with the eligible Idaho postsecondary educational institution's refund policy. (4-2-08)

**302. CONTINUING ELIGIBILITY.**

To remain eligible for renewal of an opportunity scholarship, the recipient must comply with all of the provisions of the Opportunity Scholarship Program and these rules, in addition to the following requirements: (4-2-08)

**01. Renewal Application.** A scholarship recipient must ~~complete and submit a renewal application in order to be considered for a continuing scholarship for each succeeding year. A completed application for the renewal of an opportunity scholarship must be submitted to the Board electronically by the date established on the application, but not later than January 31. An applicant without electronic capabilities may submit an application on the form established by the Board through the United States Postal Service, which must be postmarked not later than January 31. In addition, a scholarship recipient must~~ update and submit the FAFSA on or prior to March 1. (4-2-08)( )

**02. Credit Hours.** To remain eligible for renewal of an opportunity scholarship, the scholarship recipient attending a four (4) year eligible postsecondary institution must have completed a minimum of twelve (12) credit hours or its equivalent each semester that the student received an opportunity scholarship award. A scholarship recipient attending a two (2) year eligible postsecondary institution must have completed a minimum of nine (9) credit hours or its equivalent each semester that the student received an opportunity scholarship award. (4-2-08)( )

**03. Satisfactory Academic Progress.** To remain eligible for renewal of an opportunity scholarship, the scholarship recipient must have maintained a minimum cumulative grade point average of ~~two~~ three point zero (3.0) on a scale of four point zero (4.0) during the time that the recipient received an opportunity scholarship award, and must be maintaining satisfactory academic progress, consistent within federal financial regulations as implemented at the eligible Idaho postsecondary educational institution at which the scholarship recipient was enrolled. (4-2-08)( )

**04. Maximum Scholarship Award.** The award of an opportunity scholarship shall not exceed the equivalent of eight (8) semesters or the equivalent of four (4) academic years. (4-2-08)

**05. Eligibility Following Interruption of Continuous Enrollment.** A scholarship recipient whose continuous enrollment is interrupted for more than four (4) months for any reason but who intends to re-enroll in an eligible Idaho postsecondary educational institution must file a letter of intent to interrupt continuous enrollment no later than sixty (60) days prior to the first day of the academic term of the discontinued attendance. Failure to do so may result in forfeiture of the scholarship. The Board will review each request for interruption and notify the individual of approval or denial of the request. In addition, the individual must file a statement with the Board declaring his intent to re-enroll as a full-time undergraduate student in an academic or professional-technical program in an eligible Idaho postsecondary educational institution for the succeeding academic year no later than thirty (30) days prior to the first day of the academic term in which the individual intends to re-enroll. An extension of interruption of continuous enrollment period may be granted for eligible students due to military service in the United States armed forces, medical circumstances, or other circumstances approved by the state board of education's executive director. All requests for extension must be made sixty (60) days prior to the start of the succeeding academic year. (4-2-08)( )

303. -- 399. (RESERVED)

**400. RESPONSIBILITIES OF ELIGIBLE IDAHO POSTSECONDARY EDUCATIONAL INSTITUTIONS.**

**01. Statements of Continuing Eligibility.** An eligible Idaho postsecondary educational institution

participating in this Opportunity Scholarship Program must submit statements of continuing student eligibility to the Board by the 30th day after the end of each academic term. Such statements must include verification that the scholarship recipient is still enrolled, attending full time, maintaining satisfactory academic progress, and has not exceeded the award eligibility terms. (4-2-08)(    )

**02. Other Requirements.** An eligible Idaho postsecondary educational institution must: (4-2-08)

**a.** Be eligible to participate in Federal Title IV financial aid programs, and must supply documentation to the Board verifying this eligibility, and prompt notification regarding any changes in this status; (4-2-08)

**b.** Have the necessary administrative computing capability to administer the Opportunity Scholarship Program on its campus, and electronically report student data records to the Board; (4-2-08)

**c.** Provide data on student enrollment and federal, state, and private financial aid for students to the Board, and (4-2-08)

**d.** Provide student level data as requested by the board on the effectiveness of the scholarship program in the form and timeframe established by the board. (    )

**d.e.** Agree to permit periodic Opportunity Scholarship Program audits to verify compliance with Idaho law and these rules related to the program. (4-2-08)

**401. ADMINISTRATION.**

The Board is responsible for: (4-2-08)

**a.** Releasing any public information regarding the Opportunity Scholarship Program; (4-2-08)

**b.** Determination of scholarship recipients; (4-2-08)

**c.** Determination of procedures for payment of scholarships to recipients; (4-2-08)

**d.** Maintaining fiscal controls and accounting procedures; (4-2-08)

**e.** Preparing annual reports as required, and (4-2-08)

**f.** Authorizing release of all forms, affidavits, and certification necessary for the operation of the program. (4-2-08)

**g.** Providing annually to the participating institutions the formulas that will be used in calculating: (    )

**i.** Academic eligibility scores; and (    )

**ii.** Weighting financial eligibility and academic eligibility. (    )

**402. -- 500. (RESERVED)**

**501. APPEALS.**

Any opportunity scholarship applicant or recipient adversely affected by a decision made under provisions of these rules may appeal such adverse decision as follows. The opportunity scholarship applicant or recipient must appeal no later than thirty (30) days following notice of the decision, and the written statement must include a statement of the reason the opportunity scholarship applicant or recipient believes the decision should be changed. The appeal must be submitted to the President executive director of the Board or designee. The office of the board ~~must~~ shall acknowledge receipt of the appeal within seven (7) days. The President executive director of the Board may or may not agree to review the action, or may appoint a subcommittee of three (3) persons, including at least one (1) financial aid administrator at an eligible postsecondary educational institution in Idaho. (4-2-08)(    )

**01. Transmittal to Subcommittee.** If the appeal is transmitted to the subcommittee, the subcommittee will review the appeal and submit a written recommendation to the *President executive director* of the Board within fifteen (15) days from the time the subcommittee receives the appeal document. The opportunity scholarship applicant or recipient initiating the appeal will be notified by the chairperson of the subcommittee of the time and place when the subcommittee will consider the appeal and will be allowed to appear before the subcommittee to discuss the appeal. (4-2-08)( )

**02. Subcommittee Recommendations.** Following the subcommittee's decision, the *President executive director* of the Board will present the subcommittee's recommendation to the full Board at the next regularly scheduled meeting of the Board. The opportunity scholarship applicant or recipient initiating the appeal may, at the discretion of the *President executive director* of the Board, be permitted to make a presentation to the Board. (4-2-08)( )

**03. Board Decision.** The decision of the Board is final, binding, and ends all administrative remedies, unless otherwise specifically provided by the Board. The Board will inform the opportunity scholarship applicant or recipient in writing of the decision of the Board. (4-2-08)

# **IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

## **08.02.02 - RULES GOVERNING UNIFORMITY**

**DOCKET NO. 08-0202-1302**

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

**EFFECTIVE DATE:** The effective date of the temporary rule is June 20, 2013.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 33-105, Idaho Code, Section 33-107, Idaho Code, and Section 33-1612, Idaho Code and 33-118.

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

**Wednesday, August 14, 2013 at 3:00 p.m. (MDT)**

**State Department of Education  
Barbara Morgan Conference Room  
650 West State Street, 2nd Floor  
Boise, Idaho 83702**

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

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

Section 33-119, Idaho Code, requires the State Board of Education to establish standards for the accreditation of any secondary school and set standards for all elementary schools as it may deem necessary. In August, 2007, the State Board of Education eliminated the Idaho State Accreditation process and adopted the Northwest Association of Accredited Schools (NAAS) standards for accreditation purposes due to the fact that a duplication of efforts existed between the two processes. This change allowed the State Department of Education to reallocate funding to other program areas within the Department and provided an opportunity to divert some of those funds back into classrooms across Idaho.

In 2011, the Northwest Association of Accredited Schools changed their name to the Northwest Accreditation Commission (NWAC) to better reflect their organizational structure as a commission rather than an association due to changes in membership and representation. In 2012, the Northwest Accreditation Commission merged with AdvancEd, becoming an Accreditation division of AdvancEd.

In accordance with IDAPA 08.02.02.140, all public secondary schools, serving any grade(s) 9-12, will be accredited by the Northwest Accreditation Commission. In the past, many school districts have operated Alternative Schools that are sponsored programs under a traditional high school. Under this structure, these alternative schools that function as programs are accredited as part of the traditional high school and their accountability is combined with the traditional high school under Idaho's Star Rating system. Upon further analysis, the State Department of Education believes that this relationship is in violation of IDAPA 08.02.02.140, but sees the value in continuing relationships where Alternative Schools can be considered sponsored programs under a traditional high school for accreditation purposes. As a result, the State Department of Education is recommending revisions to IDAPA 08.02.02.140 that will solidify which schools can operate as programs and which schools must seek standalone accreditation. This rule revision will ensure that all schools and all students are being properly accounted for through accreditation and Idaho's Star Rating system. The proposed language before you has been reviewed and approved by the Idaho Accreditation Committee.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1) (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This rule revision will ensure that all schools and all students are being properly accounted for through accreditation and Idaho's Star Rating System.

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

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

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

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this temporary and proposed rule, contact Nick Smith, State Department of Education at [nwsmith@sde.idaho.gov](mailto:nwsmith@sde.idaho.gov) or 208-332-6954.

Anyone may submit written comments regarding this temporary and proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 28, 2013.

DATED this 21st Day of June, 2013.

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

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**THE FOLLOWING IS THE TEMPORARY RULE AND THE TEXT OF THE PROPOSED RULE  
FOR DOCKET NO. 08-0202-1302**

**140. ACCREDITATION.**

All public secondary schools, serving any grade(s) 9-12, will be accredited. Accreditation is voluntary for elementary schools, grades K-8, ~~and~~ private and parochial schools, and alternative schools not identified in Subsection 140.01.a. through 140.01.e. of this rule. (Section 33- 119, Idaho Code) ~~(4-2-08)~~(6-20-13)T

**01. Alternative Schools.** Beginning with the 2014-15 school year, an alternative school serving any grade(s) 9-12 that meets any three (3) of the criteria in Subsections 140.01.a. through 140.01.e. of this rule, shall be required to be accredited. An alternative school that does not meet three (3) of the following criteria in Subsections 140.01.a. through 140.01.e. shall be considered as an alternative program by the district board of trustees and shall be included in the accreditation process and reporting of another secondary school within the district for the purposes of meeting the intent of this rule. (6-20-13)T

**a.** School has an Average Daily Attendance greater than or equal to 36 students based on previous years enrollment; (6-20-13)T

b. School enrolls any students full-time for the school year once eligibility determination is made as opposed to schools that enroll students for “make-up” or short periods of time; (6-20-13)T

c. School offers an instructional model that is different than that provided by the traditional high school within the district for a majority of the coursework, including but not limited to online/virtual curriculum; (6-20-13)T

d. School administers diplomas that come from that alternative school as opposed to students receiving a diploma from the traditional high school within the school district; or (6-20-13)T

e. School receives its own accountability rating for federal reporting purposes. (6-20-13)T

~~012.~~ **Continuous School Improvement Plan.** Schools will develop continuous school improvement plans focused on the improvement of student performance. (4-2-08)

~~023.~~ **Standards.** Schools will meet the accreditation standards of the Northwest Accreditation Commission. (3-29-12)

~~034.~~ **Reporting.** An annual accreditation report will be submitted to the State Board of Education. (4-2-08)

**IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

**08.02.02 - RULES GOVERNING UNIFORMITY**

**DOCKET NO. 08-0202-1303**

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

**EFFECTIVE DATE:** The effective date of the temporary rule is June 20, 2013.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 33-105, 33-107, 33-1612, and 33-118, Idaho Code.

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

**Wednesday, August 14, 2013 at 3:00 p.m. (MDT)**

**State Department of Education  
Barbara Morgan Conference Room  
650 West State Street, 2nd Floor  
Boise, Idaho 83702**

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

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

Changing the title of this route to certification removes unnecessary barriers in Board approval of qualified face-to-face and hybrid teacher preparation alternatives. No substantive changes are proposed in the requirements, approval process, or procedures.

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

There are no substantive changes in the requirements, approval process or procedures. This does, however, remove unnecessary barriers to board approval of qualified teacher preparation.

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

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

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

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this temporary and proposed rule, contact Christina Linder, State Department of Education, at [cpinder@sde.idaho.gov](mailto:cpinder@sde.idaho.gov), or 208-332-6886.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 28, 2013.

DATED this 21st Day of June, 2013.

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

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THE FOLLOWING IS THE TEMPORARY RULE AND THE TEXT OF THE PROPOSED RULE  
FOR DOCKET NO. 08-0202-1303

**045. ~~COMPUTER-BASED~~ ALTERNATIVE ROUTE TO TEACHER CERTIFICATION.**

An individual may acquire interim certification as found in Section 015 of these rules through an ~~approved~~ ~~computer-based~~ alternative route certification program. ~~(4-6-05)~~(6-20-13)T

**01. Approval of the Program.** The State Board of Education must approve any ~~computer-based~~ ~~alternative non-traditional~~ route to teacher certification. The program must include, at a minimum, the following components: ~~(4-6-05)~~(6-20-13)T

- a. Preassessment of teaching and content knowledge; (4-6-05)
- b. An academic advisor with knowledge of the prescribed instruction area; and (4-6-05)
- c. Exams of pedagogy and content knowledge. (4-6-05)

**02. Eligibility.** Individuals who possess a bachelor's degree or higher from an institution of higher education may utilize this ~~alternative non-traditional~~ route to an interim Idaho Teacher Certification. ~~(4-6-05)~~(6-20-13)T

**03. Requirements for Completion.** To complete this ~~alternative non-traditional~~ route, the individual must: ~~(4-6-05)~~(6-20-13)T

- a. Complete a Board approved program; (4-6-05)
- b. Pass the Board approved pedagogy and content knowledge exams; and (4-6-05)
- c. Complete the Idaho Department of Education Criminal History Check. (4-6-05)

**04. Interim Certificate.** Upon completion of the ~~computer-based~~ certification process described herein, the individual will be awarded an interim certificate from the State Department of Education's Bureau of Certification and Professional Standards. The term of the interim certification shall be three (3) years. During the term of the interim certificate, teaching by the individual must be done in conjunction with a two (2) year a teacher mentoring program approved by the Board. The individual must complete the mentoring program during the term of the interim certificate. In the case where teachers start their mentoring program in the third year of their interim certificate, they must apply to the State Department of Education Teacher Certification Department for a waiver to complete the final year of their mentoring program for full certification. All laws and rules governing the fully certificated teachers with respect to conduct, discipline and professional standards shall apply to individuals teaching under an interim certificate. ~~(4-4-13)~~(6-20-13)T

**05. Interim Certificate Not Renewable.** Interim certification hereunder is only available on a one (1) time basis per individual. It will be the responsibility of the individual to obtain full Idaho Teacher Certification during the three (3) year interim certification term. (4-6-05)

**06. Types of Certificates and Endorsements.** The ~~computer-based alternative~~ non-traditional route may be used for ~~initial~~ first-time certification, subsequent certificates, and additional endorsements. ~~(4-11-06)~~ (6-20-13)T

**IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

**08.02.02 - RULES GOVERNING UNIFORMITY**

**DOCKET NO. 08-0202-1304**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-1511(2), Idaho Code.

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

**Wednesday, August 14, 2013 at 3:00 p.m. (MDT)**

**State Department of Education  
Barbara Morgan Conference Room  
650 West State Street, 2nd Floor  
Boise, Idaho 83702**

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

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

During the 2012 legislative session, IDAPA rule 08.02.02.016, Idaho Educator Credential, was approved with the agreement that additional language clarifying the conditions under which Idaho teachers must meet this requirement. Amendments to the Mathematics In-Service and Idaho Comprehensive Literacy Course renewal requirements clarify that only active teachers in the Idaho Public School system are required to fulfill this obligation for recertification.

**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: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule was clarification in nature and did not require negotiated rulemaking.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Christina Linder, State Department of Education, at [cplinder@sde.idaho.gov](mailto:cplinder@sde.idaho.gov) or 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 August 28, 2013.

DATED this 21st day of June, 2013.

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

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THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 08-0202-1304

**016. IDAHO EDUCATOR CREDENTIAL.**

The State Board of Education authorizes the State Department of Education to issue certificates and endorsements to those individuals meeting the specific requirements for each area provided herein. (Section 33-1201, Idaho Code) (3-16-04)

**01. Renewal Requirement - Mathematics In-Service Program.** In order to recertify, the state approved mathematics instruction course titled "Mathematical Thinking for Instruction" shall be required. The "Mathematical Thinking for Instruction" course consists of three (3) credits (or forty-five (45) contact hours of in-service training). Teachers and administrators shall take one (1) of the three (3) courses developed that each teacher deems to be most closely aligned with their current assignment prior to September 1, 2014. Any teacher or administrator successfully completing said course shall be deemed to have met the requirement of Subsection 060.03.c. of this rule, regardless of whether such course is part of any official transcript. Successful completion of state approved mathematics instruction course shall be a one-time requirement for renewal of certification for those currently employed in an Idaho school district and shall be included within current requirements for continuing education for renewal. The following individuals listed in Subsection 016.01.a. through 016.01.e. shall successfully complete the "Mathematical Thinking for Instruction" course in order to recertify: (4-7-11)

**a.** Each teacher holding an Early Childhood/Early Childhood Special Education Blended Certificate (Birth - Grade 3) who is employed in an elementary classroom (multi-subject classroom, K-8); (3-29-10)

**b.** Each teacher holding a Standard Elementary Certificate (K-8) who is employed in an elementary classroom (multi-subject classroom K-8); ~~(3-29-10)~~( )

**c.** Each teacher holding a Standard Secondary Certificate (6-12) teaching in a math content classroom (grade six (6) through grade twelve (12)) including Title I who is employed in an elementary classroom\* (multi-subject classroom K-8); ~~(3-29-10)~~( )

**d.** Each teacher holding a Standard Exceptional Child Certificate (K-12) who is employed in an elementary classroom (multi-subject classroom K-8); and ~~(3-29-10)~~( )

**e.** Each school administrator holding an Administrator Certificate (Pre K-12) who is employed in an elementary classroom (multi-subject classroom K-8), including all school district and charter administrators. ~~(4-4-13)~~( )

**02. Out-of-State Applicants - Mathematical Thinking for Instruction.** (4-4-13)

**a.** Out-of-state applicants shall take the state approved mathematics instruction course titled "Mathematical Thinking for Instruction" as a certification requirement. The "Mathematical Thinking for Instruction" course consists of three (3) credits (or forty-five (45) contact hours of in-service training). (3-29-10)

**b.** Those individuals who qualify for an Idaho certificate through state reciprocity shall be granted a three-year, non-renewable, interim certificate to allow time to meet the Idaho Mathematics In-service program requirement. (4-4-13)

**03. Waiver of Mathematics In-Service Program.** When applying for certificate renewal, an automatic waiver of the mathematics in-service program requirement shall be granted for any certificated individual ~~who lives~~ **living** outside of the state of Idaho ~~or~~ who is not currently employed as an educator in the state of Idaho. This waiver applies only as long as the individual remains outside the state of Idaho or as long as the individual is not employed as an educator in the state of Idaho. Upon returning to Idaho or employment in an Idaho public school, the educator will need to complete this requirement prior to the next renewal period. ~~(4-4-13)~~( )

**04. Renewal Requirement - Idaho Comprehensive Literacy Course.** In order to recertify, a state approved Idaho Comprehensive Literacy Course shall be required. Successful completion of a state approved Idaho Comprehensive Literacy course shall be a one-time requirement for renewal of certification for those currently employed in an Idaho school district and shall be included within current requirements for continuing education for renewal. The following individuals listed in Subsection 016.04.a. through 016.04.c. shall successfully complete an Idaho Comprehensive Literacy course in order to recertify: (4-4-13)

**a.** Each teacher holding an Early Childhood/Early Childhood Special Education Blended Certificate (Birth - Grade 3) who is employed in an elementary classroom (multi-subject classroom, K-8); (4-4-13)

**b.** Each teacher holding a Standard Elementary Certificate (K-8) who is employed in an elementary classroom (K-8); and ~~(4-4-13)~~( )

**c.** Each teacher holding a Standard Exceptional Child Certificate (K-12) who is employed in a K-12 classroom. ~~(4-4-13)~~( )

**05. Out-of-State Applicants - Idaho Comprehensive Literacy Course.** Out-of-state applicants shall take a state approved Idaho Comprehensive Literacy Course as a certification requirement. (4-4-13)

**IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

**08.02.02 - RULES GOVERNING UNIFORMITY**

**DOCKET NO. 08-0202-1305**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-1511(2), Idaho Code.

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

**Wednesday, August 14, 2013 at 3:00 p.m. (MDT)**

**State Department of Education  
Barbara Morgan Conference Room  
650 West State Street, 2nd Floor  
Boise, Idaho 83702**

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

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

The Executive Committee, a decision-making body comprised of members of the Professional Standards Commission, including the chair and/or vice-chair of the Commission, has the prime duty to review purported violations of the Code of Ethics for Idaho Professional Educators to determine probable cause and direction for possible action to be taken against a Certificate holder. After extensive research and consultation with the Deputy Attorney General assigned to the PSC, the Executive Committee proposed to the full Commission a series of clarifications and revisions to the Code of Ethics for Idaho Professional Educators. The proposal was discussed at length and the Professional Standards Commission voted to recommend approval of the proposed revisions to the Code of Ethics for Idaho Professional Educators.

**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: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule was created through a committee of practitioners appointed by the State Board of Education. Therefore, multiple stakeholder groups were informed and the recommendations vetted.

**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, State Department of Education, at [cpilinder@sde.idaho.gov](mailto:cpilinder@sde.idaho.gov), or 208-332-6886.

Anyone may submit written comments regarding this temporary and proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 28, 2013.

DATED this 21st Day of June, 2013.

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

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**THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 08-0202-1305**

**076. CODE OF ETHICS FOR IDAHO PROFESSIONAL EDUCATORS (SECTIONS 33-1208 AND 33-1209, IDAHO CODE).**

Believing in the worth and dignity of each human being, the professional educator recognizes the supreme importance of pursuing truth, striving toward excellence, nurturing democratic citizenship and safeguarding the freedom to learn and to teach while guaranteeing equal educational opportunity for all. The professional educator accepts the responsibility to practice the profession according to the highest ethical principles. The Code of Ethics for Idaho Professional Educators symbolizes the commitment of all Idaho educators and provides principles by which to judge conduct. (3-20-04)

**01. Aspirations and Commitments.** (3-20-04)

**a.** The professional educator aspires to stimulate the spirit of inquiry in students and to provide opportunities in the school setting that will help them acquire viable knowledge, skills, and understanding that will meet their needs now and in the future. (3-20-04)

**b.** The professional educator provides an environment that is safe to the cognitive, physical and psychological well-being of students and provides opportunities for each student to move toward the realization of his/~~her~~ goals and potential as an effective citizen. (~~4-11-06~~)(    )

**c.** The professional educator, recognizing that students need role models, will act, speak and teach in such a manner as to exemplify nondiscriminatory behavior and encourage respect for other's cultures and beliefs. (~~3-20-04~~)(    )

**d.** The professional educator is committed to the public good and will help preserve and promote the principles of democracy. He will provide input to the local school board to assist in the board's mission of developing and implementing sound educational policy, while promoting a climate in which the exercise of professional judgment is encouraged. (4-11-06)

**e.** The professional educator believes the quality of services rendered by the education profession directly influences the nation and its citizens. He strives, therefore, to establish and maintain the highest set of professional principles of behavior, to improve educational practice, and to achieve conditions that attract highly qualified persons to the profession. (4-11-06)

**f.** The professional educator regards the employment agreement as a pledge to be executed in a manner consistent with the highest ideals of professional service. He believes that sound professional personal relationships with colleagues, governing boards, and community members are built upon integrity, dignity, and mutual respect. The professional educator encourages the practice of the profession only by qualified persons. (4-11-06)

**02. Principle I - Professional Conduct.** A professional educator abides by all federal, state, and local education laws and statutes. Unethical conduct ~~may~~ shall include the conviction of any felony or misdemeanor

offense ~~as defined by set forth in~~ Section ~~18-110 and Section 18-111~~ 33-1208, Idaho Code. ~~All infractions (traffic) as defined by Section 18-113A, Idaho Code, are excluded.~~ (3-20-04)( )

**03. Principle II - Educator/Student Relationship.** A professional educator maintains a professional relationship with all students, both inside and outside the physical and virtual classroom. Unethical conduct includes, but is not limited to: (3-20-04)( )

- a. Committing any act of child abuse, including physical or emotional abuse; (3-20-04)
- b. Committing any act of cruelty to children or any act of child endangerment; (3-20-04)
- c. Committing or soliciting any sexual act from any minor or any student regardless of age; (3-20-04)
- d. Committing any act of harassment as defined by district policy; (4-11-06)
- e. Soliciting, encouraging, or consummating a romantic or inappropriate relationship (whether written, verbal, virtual, or physical) with a student, regardless of age; (3-20-04)( )
- f. Using inappropriate language including, but not limited to, swearing and improper sexual comments (e.g., sexual innuendoes or sexual idiomatic phrases); (3-20-04)
- g. Taking or possessing inappropriate ~~pictures~~ images (digital, photographic, or video) of students; (3-20-04)( )
- h. Inappropriate contact with any minor or any student regardless of age using electronic media; (4-11-06)
- i. Furnishing alcohol or illegal or unauthorized drugs to any student or allowing or encouraging a student to consume alcohol or unauthorized drugs except in a medical emergency; ~~and~~ (4-11-06)( )
- j. Conduct that is detrimental to the health or welfare of students; ~~and~~ (4-11-06)( )
- k. Deliberately falsifying information presented to students.** ( )

**04. Principle III - Alcohol and Drugs Use or Possession.** A professional educator refrains from the abuse of alcohol or drugs during the course of professional practice. Unethical conduct includes, but is not limited to: (3-20-04)( )

- a. Being on school premises or at any school-sponsored activity, home or away, involving students while possessing, using, or consuming illegal or unauthorized drugs; (3-20-04)
- b. Being on school premises or at any school-sponsored activity, home or away, involving students while possessing, using, or consuming alcohol; (3-20-04)
- c. Inappropriate or illegal use of prescription medications on school premises or at any school-sponsored events, home or away; (4-11-06)
- d. Inappropriate or illegal use of drugs or alcohol that impairs the individual's ability to function; and (4-11-06)
- e. Possession of an illegal drug as defined in Chapter 27, Idaho Code, Uniform Controlled Substances. (3-20-04)

**05. Principle IV - Professional Integrity.** A professional educator exemplifies honesty and integrity in the course of professional practice. Unethical conduct includes, but is not limited to: (3-20-04)( )

- a. Fraudulently altering or preparing materials for licensure or employment; (3-20-04)

b. Falsifying or deliberately misrepresenting professional qualifications, degrees, academic awards, and related employment history when applying for employment or licensure; (3-20-04)

c. Failure to notify the state at the time of application for licensure of past revocations or suspensions of a certificate or license from another state; (3-20-04)

d. Failure to notify the state at the time of application for licensure of past criminal convictions at the time of application for licensure of any crime violating the statutes or rules governing teacher certification; ~~(3-20-04)~~( )

e. Falsifying, deliberately misrepresenting, or deliberately omitting information regarding the evaluation of students or personnel, including improper administration of any standardized tests (changing test answers; copying or teaching identified test items; unauthorized reading of the test to students, etc.); (4-11-06)

f. Falsifying, deliberately misrepresenting, or deliberately omitting reasons for absences or leaves; (3-20-04)

g. Falsifying, deliberately misrepresenting, or deliberately omitting information submitted in the course of an official inquiry or investigation; ~~and~~; ~~(3-20-04)~~( )

h. Falsifying, deliberately misrepresenting, or deliberately omitting material information on an official evaluation of colleagues; ~~and~~; ~~(3-20-04)~~( )

i. Failure to notify the state of any criminal conviction of a crime violating the statutes and/or rules governing teacher certification. ( )

**06. Principle V - Funds and Property.** A professional educator entrusted with public funds and property honors that trust with a high level of honesty, accuracy, and responsibility. Unethical conduct includes, but is not limited to: ~~(3-20-04)~~( )

a. Misuse, or unauthorized use, of public or school-related funds or property; (3-20-04)

b. Failure to account for school funds collected from students, ~~or~~ parents, or patrons; ~~(3-20-04)~~( )

c. Submission of fraudulent requests for reimbursement of expenses or for pay; (3-20-04)

d. Co-mingling of public or school-related funds in personal bank account(s); (3-20-04)

e. Use of school ~~computers~~ property for ~~a~~ private ~~business~~ financial gain; ~~(3-20-04)~~( )

f. Use of school computers to deliberately view or print pornography; and, (3-20-04)

g. Deliberate use of poor budgeting or accounting practices. (3-20-04)

**07. Principle VI - Compensation.** A professional educator maintains integrity with students, colleagues, parents, patrons, or business personnel when accepting gifts, gratuities, favors, and additional compensation. Unethical conduct includes, but is not limited to: ~~(3-20-04)~~( )

a. Unauthorized solicitation of students or parents of students to purchase equipment, ~~or~~ supplies, or services from the educator who will directly benefit; ~~(3-20-04)~~( )

b. Acceptance of gifts from vendors or potential vendors for personal use or gain where there may be the appearance of a conflict of interest; (3-20-04)

c. Tutoring students assigned to the educator for remuneration unless approved by the local board of education; and, (3-20-04)

d. Soliciting, accepting, or receiving a ~~pecuniary~~ **financial** benefit greater than fifty dollars (\$50) as defined in Section 18-1359(b), Idaho Code. (3-20-04)( )

**08. Principle VII - Confidentiality.** A professional educator complies with state and federal laws and local school board policies relating to the confidentiality of student and employee records, unless disclosure is required or permitted by law. Unethical conduct includes, but is not limited to: (3-20-04)( )

a. Sharing of confidential information concerning student academic and disciplinary records, personal confidences, health and medical information, family status or income, and assessment or testing results with inappropriate individuals or entities; and (3-20-04)

b. Sharing of confidential information about colleagues obtained through employment practices with inappropriate individuals or entities. (3-20-04)

**09. Principle VIII - Breach of Contract or Abandonment of Employment.** A professional educator fulfills all terms and obligations detailed in the contract with the local board of education or education agency for the duration of the contract. Unethical conduct includes, but is not limited to: (3-20-04)( )

~~a. Abandoning any contract for professional services without the prior written release from the contract by the employing school district or agency; (3-20-04)~~

~~b.a.~~ Willfully refusing to perform the services required by a contract; and, (3-20-04)

~~b.b.~~ Abandonment of classroom or failure to provide appropriate supervision of students at school or school-sponsored activities to ensure the safety and well-being of students. (3-20-04)

**10. Principle IX - Duty to Report.** A professional educator reports breaches of the Code of Ethics for Idaho Professional Educators and submits reports as required by Idaho Code. Unethical conduct includes, but is not limited to: (3-20-04)( )

a. Failure to comply with Section 33-1208A, Idaho Code, (reporting requirements and immunity); (3-20-04)

b. Failure to comply with Section 16-1605, Idaho Code, (reporting of child abuse, abandonment or neglect); (4-11-06)

c. Failure to comply with Section 33-512B, Idaho Code, (suicidal tendencies and duty to warn); and (4-11-06)

d. Having knowledge of a violation of the Code of Ethics for Idaho Professional Educators and failing to report the violation to an appropriate education official. (3-20-04)

**11. Principle X - Professionalism.** A professional educator ensures just and equitable treatment for all members of the profession in the exercise of academic freedom, professional rights and responsibilities while following generally recognized professional principles. Unethical conduct includes, but is not limited to: (4-11-06)( )

a. Any conduct that seriously impairs the Certificate holder's ability to teach or perform his professional duties; (3-20-04)

b. Committing any act of harassment toward a colleague; (4-11-06)

~~e. Conduct that is offensive to the ordinary dignity, decency, and morality of others; (4-11-06)~~

~~d.c.~~ Failure to cooperate with the Professional Standards Commission in inquiries, investigations, or hearings; (3-20-04)

- ed.** Using institutional privileges for the promotion of political candidates or for political activities, except for local, state or national education association elections; (4-11-06)
- f.** ~~Deliberately falsifying information presented to students;~~ (4-11-06)
- ge.** Willfully interfering with the free participation of colleagues in professional associations; and (4-11-06)
- hf.** Taking ~~or possessing~~ inappropriate ~~pictures~~ images (digital, photographic or video) of colleagues. (4-11-06)( )

**077. DEFINITIONS FOR USE WITH THE CODE OF ETHICS FOR IDAHO PROFESSIONAL EDUCATORS (SECTIONS 33-1208 AND 33-1209, IDAHO CODE).**

- 01. Administrative Complaint.** A document issued by the State Department of Education outlining the specific, purported violations of Section 33-1208, Idaho Code, or the Code of Ethics for Idaho Professional Educators. (3-20-04)
- 02. Allegation.** A purported violation of the Code of Ethics for Idaho Professional Educators or Idaho Code. (3-20-04)
- 03. Certificate.** A document issued by the Department of Education under the authority of the State Board of Education allowing a person to serve in any elementary or secondary school in the capacity of teacher, supervisor, administrator, education specialist, school nurse or school librarian (Section 33-1201, Idaho Code). (3-20-04)
- 04. Certificate Denial.** The refusal of the state to grant a certificate for an initial or reinstatement application. (3-20-04)
- 05. Certificate Suspension.** A time-certain invalidation of any Idaho certificate as determined by a stipulated agreement or a due process hearing panel as set forth in Section 33-1209, Idaho Code. (3-20-04)
- 06. Complaint.** A signed document defining the allegation that states the specific ground or grounds for revocation, suspension, denial, place reasonable conditions on a certificate or issuance of a letter of reprimand (Section 33-1209(1), Idaho Code). The State Department of Education may initiate a complaint. (4-11-06)
- 07. Conditional Certificate.** Allows an educator to retain licensure under certain stated Certificate conditions as determined by the Professional Standards Commission (Section 33-1209(10), Idaho Code). (3-20-04)
- 08. Contract.** Any signed agreement between the school district and a certificated educator pursuant to Section 33-513(1), Idaho Code. (3-20-04)
- 09. Conviction.** Refers to all instances regarding a finding of guilt by a judge or jury; a plea of guilt by Nolo Contendere or Alford plea; or all proceedings in which a sentence has been suspended, deferred or withheld. (3-20-04)
- 10. Educator.** A person who holds or applies for an Idaho Certificate (Section 33-1001(16) and Section 33-1201, Idaho Code). (3-20-04)
- 11. Education Official.** An individual identified by local school board policy, including, but not limited to, a superintendent, principal, assistant principal, or school resource officer (SRO). (3-20-04)
- 12. Ethics Executive Committee.** A decision-making body comprised of members of the Professional Standards Commission, including the chair and/or vice-chair of the Commission. A prime duty of the Committee is to review purported violations of the Code of Ethics for Idaho Professional Educators to determine probable cause and direction for possible action to be taken against a Certificate holder. (4-11-06)( )

13. **Hearing.** A formal review proceeding that ensures the respondent due process. The request for a hearing is initiated by the respondent and is conducted by a panel of peers. (3-20-04)
14. **Hearing Panel.** A minimum of three (3) educators appointed by the chair of the Professional Standards Commission and charged with the responsibility to make a final determination regarding the charges specifically defined in the Administrative Complaint. (3-20-04)
15. **Investigation.** The process of gathering factual information concerning a valid, written complaint in preparation for review by the Professional Standards Commission ~~Ethics~~ **Executive** Committee, or following review by the ~~Ethics~~ **Executive** Committee at the request of the deputy attorney general assigned to the Department of Education. (~~4-11-06~~)(    )
16. **Minor.** Any individual who is under eighteen (18) years of age. (3-20-04)
17. **Not-Sufficient Grounds.** A determination by the ~~Ethics~~ **Executive** Committee that there is not-sufficient evidence to take action against an educator's certificate. (~~4-11-06~~)(    )
18. **Principles.** Guiding behaviors that reflect what is expected of professional educators in the state of Idaho while performing duties as educators in both the private and public sectors. (3-20-04)
19. **Reprimand.** A written letter admonishing the Certificate holder for his conduct. The reprimand cautions that further unethical conduct may lead to consideration of a more severe action against the holder's Certificate. (3-20-04)
20. **Respondent.** The legal term for the professional educator who is under investigation for a purported violation of the Code of Ethics for Idaho Professional Educators. (3-20-04)
21. **Revocation.** The invalidation of any Certificate held by the educator. (3-20-04)
22. **Stipulated Agreement.** A written agreement between the respondent and the Professional Standards Commission to resolve matters arising from an allegation of unethical conduct following a complaint or an investigation. The stipulated agreement is binding to both parties and is enforceable under its own terms, or by subsequent action by the Professional Standards Commission. (3-20-04)
23. **Student.** Any individual enrolled in any Idaho public or private school from preschool through grade 12. (3-20-04)
24. **Sufficient Grounds.** A determination by the Executive Committee that sufficient evidence exists to issue an Administrative Complaint. (3-20-04)

# **IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

## **08.02.03 - RULES GOVERNING THOROUGHNESS**

**DOCKET NO. 08-0203-1302**

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

**EFFECTIVE DATE:** The effective date of the temporary rule is June 20, 2013.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 33-105, Idaho Code, Section 33-107, Idaho Code, and Section 33-1612, Idaho Code and 33-118.

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

**Wednesday, August 14, 2013 at 3:00 p.m. (MDT)**

**State Department of Education  
Barbara Morgan Conference Room  
650 West State Street, 2nd Floor  
Boise, Idaho 83702**

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

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

At the November 1, 2006 Special Board Meeting, the Board approved a pending rule (Docket 08-0203-0605) amending the state high school graduation requirements. These changes included the requirement that students take 2 credits of math during their last year of high school along with several other revisions to the high school graduation requirements rule. The purpose of increasing math requirements at the high school level was two-fold: to increase rigor and to better prepare students for post-secondary education. This was to be attempted not only through increasing the number of credits required, but also by requiring students to take math during the senior year.

During the 2013 Legislative Session, the Idaho Legislature passed Senate Bills 1091 and 1028, which were both based on providing students with opportunities to advance through their coursework at a more rapid rate by taking online overload courses paid for by the State of Idaho. This would then allow eligible students to either graduate early or take dual credit courses at the expense of the State of Idaho.

The 8-in-6 Program outlined in Section 33-1628, Idaho Code, as established by Senate Bill 1091, is designed to help students complete 8 years of school work in 6 years:

- 2 years of middle school
- 4 years of high school; and
- 2 years of college, university, or professional technical education.

Students may begin the program in the 7th grade and must complete at least 1 online summer or online overload course, in addition to their full course load, each school year. The state will pay for up to 2 online summer courses and 2 online overload courses per student per school year, for a maximum of 4 courses per year. The state will pay for a maximum of 8 credits of online summer/overload courses per student during their participation in the 8-in-6 program. The state will pay \$225 per online course. If the cost exceeds \$225, the student must pay the difference.

The Master Advancement Program (MAP) outlined in Section 33-1620, Idaho Code, as established by Senate Bill 1028, is designed to allow districts and public charter schools to utilize mastery exams enabling students to

progress more quickly through school. Districts and public charter schools must apply to participate in MAP. Students must meet the eligibility criteria set by local districts and public charter schools to participate. The program is limited to 10% of students in each grade level in participating districts. Unfilled slots can be reallocated first within the school district, then at the state-level. The student receives 35 percent of ADA as a scholarship. 35 percent of the ADA is distributed to the school district, and the remaining 30 percent is savings to the state.

The Advanced Opportunities (previously titled Dual Credit for Early Completers) program outlined in Section 33-1626, Idaho Code, as established by Senate Bill 1091, is designed for students who have completed the state high school graduation requirements, with the exception of the senior project and math in the final year of high school, by no later than the beginning of the their final semester or trimester. Students meeting this criteria, are eligible for up to 36 postsecondary credits of dual credit courses paid for by the state or up to 12 AP or CLEP exams paid for by the state.

Currently, IDAPA 08.02.03.105 allows students to complete any required high school course with a grade of C or higher before entering grade nine. If that course meets the same standards that are required in high school, then the student will have met the high school content area requirement for such course. However, the student must complete the required number of credits in all high school core subjects as identified in Subsections 105.01.c. through 105.01.h. in addition to the courses completed in middle school. In reviewing these three programs, the State Department of Education believes that an amendment to IDAPA 08.02.03.105, is necessary for students to fully access and participate in these programs as intended by legislators. The amendments being proposed allows students to earn both the content and credit requirements for any high school course taken prior to a student entering the 9th grade, if that course meets the following criteria:

- The course meets the same standards that are required in high school;
- The course is taught by a properly certified teacher who meets the federal definition of being highly qualified for the course being taught; and
- The school providing the course is accredited as recognized by the state board.

In addition to the above changes, this rule revision addresses two points of clarification related to the math in the final year of school requirement. This revision clarifies that students who must return to school during the summer or the following fall (for less than a full load of courses due to failing a course) are not required to retake a math course as long as they have completed six credits of mathematics. This rule revision defines when a student's final year of high school begins as it pertains to the math in the final year of high school. This rule is necessary to clarify that the math requirement in the final year of high school may be taken during the summer preceding the student's final year of high school.

This rule has been adopted as a temporary rule to allow students to begin taking advantage of the programs outlined in Senate Bills 1091 and 1028.

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

This will allow students to take advantage of the programs outlined in Senate Bill 1091 and Senate Bill 1028 as was intended by the Idaho Legislature. This revision will also provide clarification around the math in the final year of school requirement.

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

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

**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 this temporary and proposed rule, contact Luci Willits, State Department of Education, at [lwillits@sde.idaho.gov](mailto:lwillits@sde.idaho.gov) or 208-332-6814.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 28, 2013.

DATED this 21st Day of June, 2013.

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

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**THE FOLLOWING IS THE TEMPORARY RULE AND THE TEXT OF THE PROPOSED RULE  
FOR DOCKET NO. 08-0203-1302**

**104. OTHER REQUIRED INSTRUCTION.**

Other required instruction for all students and other required offerings of the school are: (4-1-97)

**01. Elementary Schools.** (4-11-06)

**a.** The following section outlines other information required for all elementary students, as well as other required offerings of the school:

Fine Arts (art and music)  
Health (wellness)  
Physical Education (fitness) (4-11-06)

**b.** Additional instructional options as determined by the local school district. For example:  
Languages other than English  
Career Awareness (4-1-97)

**02. Middle Schools/Junior High Schools.** (4-11-06)

**a.** No later than the end of Grade eight (8) each students shall develop parent-approved student learning plans for their high school and post-high school options. The learning plan shall be developed by students with the assistance of parents or guardians, and with advice and recommendation from school personnel. It shall be reviewed annually and may be revised at any time. The purpose of a parent-approved student learning plan is to outline a course of study and learning activities for students to become contributing members of society. A student learning plan describes, at a minimum, the list of courses and learning activities in which the student will engage while working toward meeting the school district's or LEA's graduation standards. The school district or LEA will have met its obligation for parental involvement if it makes a good faith effort to notify the parent or guardian of the responsibility for the development and approval of the learning plan. A learning plan will not be required if the parent or guardian requests, in writing, that no learning plan be developed. (4-11-06)

**b.** (Effective for all students that enter the sixth grade in the fall of 2006 or later.) A student must have taken pre-algebra before the student will be permitted to enter grade nine (9). (4-11-06)

**c.** Other required instruction for all middle school students:

Health (wellness)  
Physical Education (fitness) (4-11-06)

- d. Other required offerings of the school:  
Family and Consumer Science  
Fine & Performing Arts  
Professional Technical Education  
Advisory Period (middle school only, encouraged in junior high school) (4-11-06)

~~03. **High Schools (Grades 9-12) (Effective for all students that graduate prior to January 1, 2012).** Students will maintain a parent approved student learning plan for their high school and post high school options. The learning plan will be developed by students and parents or guardians with advice and recommendation from school personnel. It will be reviewed annually and may be revised at any time. The purpose of a parent approved student learning plan is to outline a course of study and learning activities for students to become contributing members of society. The learning plan outlines a student's program of study, which should include a rigorous academic core and a related sequence of electives in academic, professional-technical education (PTE), or humanities aligned with the student's post graduation goals. The school district will have met its obligation for parental involvement if it makes a good faith effort to notify the parent or guardian of the responsibility for the development and approval of the learning plan. A learning plan will not be required if the parent or guardian requests, in writing, that no learning plan be developed. (4-11-06)~~

~~a. Other required instructional offerings of the high school. Each student must complete credit and achievement standards in at least two (2) of the following areas of instructional offerings:  
Physical Education (fitness)  
Humanities  
Professional Technical Education (including work based learning)  
Family and Consumer Science  
Fine and Performing Arts  
Languages other than English (may include indigenous languages or sign language) (4-11-06)~~

## 105. HIGH SCHOOL GRADUATION REQUIREMENTS.

A student must meet all of the requirements identified in this section before the student will be eligible to graduate from an Idaho high school. The local school district or LEA may establish graduation requirements beyond the state minimum. (5-8-09)

**01. Credit Requirements.** The State minimum graduation requirement for all Idaho public high schools is forty-two (42) credits. The forty-two (42) credits must include twenty-five (25) credits in core subjects as identified in Paragraphs 105.01.c. through 105.01.i. All credit-bearing classes must be aligned with state high school standards in the content areas for which standards exist. For all public school students who enter high school at the 9th grade level in Fall 2009 or later, the minimum graduation requirement will be forty-six (46) credits and must include twenty-nine (29) credits in core subjects as identified in Paragraphs 105.01.c. through 105.01.i. (3-29-12)

a. Credits. (Effective for all students who enter the ninth grade in the fall of 2010 or later.) One (1) credit shall equal sixty (60) hours of total instruction. School districts or LEA's may request a waiver from this provision by submitting a letter to the State Department of Education for approval, signed by the superintendent and chair of the board of trustees of the district or LEA. The waiver request shall provide information and documentation that substantiates the school district or LEA's reason for not requiring sixty (60) hours of total instruction per credit. (3-29-10)

b. Mastery. A student may also achieve credits by demonstrating mastery of a subject's content standards as defined and approved by the local school district or LEA. (3-29-10)

c. Secondary Language Arts and Communication. Nine (9) credits are required. Eight (8) credits of instruction in Language Arts. Each year of Language Arts shall consist of language study, composition, and literature and be aligned to the Idaho Content Standards for the appropriate grade level. One (1) credit of instruction in communications consisting of oral communication and technological applications that includes a course in speech, a course in debate, or a sequence of instructional activities that meet the Idaho Speech Content Standards requirements.

(3-29-10)

**d.** Mathematics. Four (4) credits are required. Secondary mathematics includes Applied Mathematics, Business Mathematics, Algebra, Geometry, Trigonometry, Fundamentals of Calculus, Probability and Statistics, Discrete Mathematics, and courses in mathematical problem solving and reasoning. For all public school students who enter high school at the 9th grade level in Fall 2009 or later, six (6) semester credits are required. For such students, secondary mathematics includes instruction in the following areas: (3-29-10)

i. Two (2) credits of Algebra I or courses that meet the Idaho Algebra I Content Standards as approved by the State Department of Education; (3-29-10)

ii. Two (2) credits of Geometry or courses that meet the Idaho Geometry Content Standards as approved by the State Department of Education; and (3-29-10)

iii. Two (2) credits of mathematics of the student's choice. (3-29-10)

iv. Two (2) credits of the required six (6) credits of mathematics must be taken in the last year of high school in which the student intends to graduate. For the purposes of this subsection, the last year of high school shall include the summer preceding the fall start of classes. Students who return to school during the summer or the following fall of the next year for less than a full schedule of courses due to failing to pass a course other than math are not required to retake a math course as long as they have earned six (6) credits of high school level mathematics. ~~(3-29-10)~~(6-20-13)T

v. Students who have completed six (6) credits of math prior to the fall of their last year of high school, including at least two (2) semesters of an Advanced Placement or dual credit calculus or higher level course, are exempt from taking math during their last year of high school. (4-4-13)

**e.** Science. Four (4) credits are required, two (2) of which will be laboratory based. Secondary sciences include instruction in applied sciences, earth and space sciences, physical sciences, and life sciences. (3-29-10)

i. Effective for all public school students who enter high school at the 9th grade level in Fall 2009 or later, six (6) credits will be required. (3-29-10)

ii. Secondary sciences include instruction in the following areas: biology, physical science or chemistry, and earth, space, environment, or approved applied science. Four (4) credits of these courses must be laboratory based. (3-29-10)

**f.** Social Studies. Five (5) credits are required, including government (two (2) credits), United States history (two (2) credits), and economics (one (1) credit). Courses such as geography, sociology, psychology, and world history may be offered as electives, but are not to be counted as a social studies requirement. (3-29-10)

**g.** Humanities. Two (2) credits are required. Humanities courses include instruction in visual arts, music, theatre, dance, or world language aligned to the Idaho content standards for those subjects. Other courses such as literature, history, philosophy, architecture, or comparative world religions may satisfy the humanities standards if the course is aligned to the Idaho Interdisciplinary Humanities Content Standards. (3-29-10)

**h.** Health/Wellness. One (1) credit is required. Course must be aligned to the Idaho Health Content Standards. (3-29-10)

**02. Content Standards.** Each student shall meet locally established subject area standards (using state content standards as minimum requirements) demonstrated through various measures of accountability including examinations or other measures. (3-29-10)

**03. College Entrance Examination.** (Effective for all public school students who enter high school at the 9th grade level in Fall 2009 or later.) (3-29-12)

a. A student must take one (1) of the following college entrance examinations before the end of the student's eleventh grade year: COMPASS, ACCUPLACER, ACT or SAT. Scores must be included in the Learning Plan. (3-29-12)

b. A student may elect an exemption in their 11th grade year from the college entrance exam requirement if the student is: (3-29-12)

i. Enrolled in a special education program and has an Individual Education Plan (IEP) that specifies accommodations not allowed for a reportable score on the approved tests; or (3-29-12)

ii. Enrolled in a Limited English Proficient (LEP) program for three (3) academic years or less. (3-29-12)

**04. Senior Project.** (Effective for all public school students who enter high school at the 9th grade level in Fall 2009 or later.) A student must complete a senior project by the end of grade twelve (12). The project must include a written report and an oral presentation. Additional requirements for a senior project are at the discretion of the local school district or LEA. (3-29-10)

**05. Middle School.** If a student completes any required high school course with a grade of C or higher before entering grade nine (9), *and* if that course meets the same standards that are required in high school, if the course is taught by a properly certified teacher who meets the federal definition of being highly qualified for the course being taught and if the school providing the course is accredited as recognized by the state board, then the student ~~has~~ will have met the high school content and credit area requirement for such course. ~~However, the student must complete the required number of credits in all high school core subjects as identified in Subsections 105.01.e. through 105.01.h. in addition to the courses completed in middle school.~~ The student shall be given a grade for the successful completion of that course and such grade and the number of credit hours assigned to the course shall be transferred to the student's high school transcript. (~~3-29-12~~)(6-20-13)T

**06. Proficiency.** Each student must achieve a proficient or advanced score on the Grade 10 Idaho Standards Achievement Test (ISAT) in math, reading and language usage in order to graduate. A student who does not attain at least a proficient score prior to graduation may appeal to the school district or LEA, and will be given an opportunity to demonstrate proficiency of the content standards through some other locally established plan. School districts or LEAs shall adopt an alternate plan and provide notice of that plan to all students who have not achieved a proficient or advanced score on the Grade 10 Idaho Standards Achievement Test by the fall semester of the student's junior year. All locally established alternate plans used to demonstrate proficiency shall be forwarded to the State Board of Education for review and information. Alternate plans must be promptly re-submitted to the Board whenever changes are made in such plans. (4-7-11)

a. Before entering an alternate measure, the student must be: (4-2-08)

i. Enrolled in a special education program and have an Individual Education Plan (IEP); or (3-20-04)

ii. Enrolled in an Limited English Proficient (LEP) program for three (3) academic years or less; or (3-20-04)

iii. Enrolled in the fall semester of the senior year. (3-20-04)

b. The alternate plan must: (4-7-11)

i. Contain multiple measures of student achievement; (4-7-11)

ii. Be aligned at a minimum to tenth grade state content standards; (4-7-11)

iii. Be aligned to the state content standards for the subject matter in question; (4-7-11)

iv. Be valid and reliable; and (4-7-11)

v. Ninety percent (90%) of the alternate plan criteria must be based on academic proficiency and performance. (4-7-11)

c. A student is not required to achieve a proficient or advanced score on the ISAT if: (5-8-09)

i. The student received a proficient or advanced score on an exit exam from another state that requires a standards-based exam for graduation. The state's exit exam must approved by the State Board of Education and must measure skills at the tenth grade level and be in comparable subject areas to the ISAT; (5-8-09)

ii. The student completes another measure established by a school district or LEA and received by the Board as outlined in Subsection 105.06; or (3-29-10)

iii. The student has an IEP that outlines alternate requirements for graduation or adaptations are recommended on the test; (5-8-09)

iv. The student is considered an LEP student through a score determined on a language proficiency test and has been in an LEP program for three (3) academic years or less; (5-8-09)

**07. Special Education Students.** A student who is eligible for special education services under the Individuals With Disabilities Education Improvement Act must, with the assistance of the student's Individualized Education Program (IEP) team, refer to the current Idaho Special Education Manual for guidance in addressing graduation requirements. (4-11-06)

**08. Foreign Exchange Students.** A foreign exchange student may be eligible for graduation by completing a comparable program as approved by the school district or LEA. (4-11-06)

**IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

**08.02.03 - RULES GOVERNING THOROUGHNESS**

**DOCKET NO. 08-0203-1303**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-1511(2), Idaho Code.

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

**Wednesday, August 14, 2013 at 3:00 p.m. (MDT)**

**State Department of Education  
Barbara Morgan Conference Room  
650 West State Street, 2nd Floor  
Boise, Idaho 83702**

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

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

Districts are required to maintain a comprehensive policy and procedures regarding Gun-free Schools in addition to other components related to safe environments and discipline. To accurately reflect the prohibition of weapons on campus and the power of trustees to authorize select employees to carry firearms on campus, the State Department of Education proposes the following language replace the existing "Gun-free Schools" language.

**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: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rule is a clarification of current nomenclature as it relates to safe schools.

**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 Matt McCarter, State Department of Education at [mamccarter@sde.idaho.gov](mailto:mamccarter@sde.idaho.gov) or 208-332-6961.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 28, 2013.

DATED this 21st day of June, 2013

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

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**THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 08-0203-1303**

**160. SAFE ENVIRONMENT AND DISCIPLINE.**

Each school district will have a comprehensive districtwide policy and procedure encompassing the following:

School Climate
Discipline
Student Health
Violence Prevention
<del>Gun-free Schools</del> <u>Students Prohibited from Possessing Weapons on Campus</u>
Substance Abuse - Tobacco, Alcohol, and Other Drugs
Suicide Prevention
Student Harassment
Drug-free School Zones
Building Safety including Evacuation Drills
Relationship Abuse and Sexual Assault Prevention and Response

Districts will conduct an annual review of these policies and procedures. (See Section 33-1612)

(4-4-13)( )

# IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

## 08.02.03 - RULES GOVERNING THOROUGHNESS

### DOCKET NO. 08-0203-1304 (FEE RULE)

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-1511(2), Idaho Code.

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

**Wednesday, August 14, 2013 at 3:00 p.m. (MDT)**

**State Department of Education  
Barbara Morgan Conference Room  
650 West State Street, 2nd Floor  
Boise, Idaho 83702**

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

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

During the 2013 Legislative Session, the Idaho Legislature re-established an online course portal under Senate Bill 1091 (Section 33-1024, Idaho Code) that will display courses and customer ratings from students and parents. Additionally, parents will be able to enroll their students in online courses with the home school district and communicate with the home school district through the portal.

Section 33-118, Idaho Code, authorizes the Board by rule to determine the process by which the Department reviews and approves online courses, pursuant to Section 33-1024, Idaho Code. This rule outlines that process. Idaho certified classroom teachers will review the online course providers and courses under the direction of the State Department of Education. The providers will be approved for a period of four years. In order to cover the cost of review, the State Department of Education will charge providers a submission fee based on the number of courses offered, not to exceed the actual cost of review.

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

In order to cover the cost of review, the State Department of Education will charge providers a submission fee based on the number of courses offered, not to exceed the actual cost of review, in effect being cost neutral.

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this is a previously published rule in response to state law changes.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Luci Willits, State Department of Education, at [lbwillits@sde.idaho.gov](mailto:lbwillits@sde.idaho.gov) or 208-332-6814.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 28, 2013.

DATED this 21st day of June, 2013.

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

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**THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR FEE DOCKET NO. 08-0203-1304**

**128. CURRICULAR MATERIALS SELECTION AND ONLINE COURSE APPROVAL (SECTIONS 33-118; 33-118A, IDAHO CODE).**

The State Board of Education will appoint a committee to select curriculum materials. Committee appointments will be for a period of five (5) years. Committee appointments shall consist of not less than ten (10) total members from the following stakeholder groups: certified Idaho classroom teachers, Idaho public school administrators, Idaho higher education officials, parents, trustees, local board of education members, members of the Division of Professional Technical Education, and State Department of Education personnel. The Executive Secretary will be an employee of the State Department of Education and will be a voting member of the committee. The State Department of Education shall charge publishers submission fees of sixty dollars (\$60) or equal to the retail price of each, whichever is greater, to defray the costs incurred in the curricular material review and adoption process. (3-27-13)

**01. Subject Areas.** Curricular materials are adopted by the State Board of Education for a period of six (6) years in the following subject areas: reading, English, spelling, speech, journalism, languages other than English, art, drama, social studies, music, mathematics, business education, career education and counseling, vocational/technical education, science, health, handwriting, literature, driver education, limited English proficiency. (4-11-06)

**02. Multiple Adoptions are Made in Each Subject Area.** (4-5-00)

**03. Bids.** Each publisher must deliver, according to the committee schedule, a sealed bid on all curricular materials presented for adoption. (4-5-00)

**04. Depository.** The State Board will appoint a depository for the state-adopted curricular materials. Resource materials are a local option. (4-5-00)

**05. Local Policies.** School districts will follow their own policies for adoption in subject areas offered by a school district for which materials are not covered by the state curriculum materials committee. (4-5-00)

**06. Online Course Review and Approval Process.** The State Department of Education shall administer the review and approval of online course providers and courses. Reviewers shall be certified Idaho classroom teachers. Online course providers are approved for a period of four (4) years. The State Department of Education shall charge online course providers submission fees based on the number of courses offered, not to exceed the actual costs incurred in the online course and course provider review and approval process. ( )

# **IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

## **08.02.04 - RULES GOVERNING PUBLIC CHARTER SCHOOLS**

**DOCKET NO. 08-0204-1301**

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

**EFFECTIVE DATE:** The effective date of the temporary rule is June 20, 2013.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 33-105, 33-5203, and 33-5210(4)(e), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2013.

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:

Changes under consideration bring IDAPA 08.02.04 into alignment with the legislative changes made in 2013 and clarify the process for new charter school authorizers and the accountability measure requirements for charter schools.

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

During the 2013 Legislative session changes were made to Title 33, Chapter 52 Idaho code allowing for additional charter school authorizers and the implementation of new accountability measures. Specific changes remove duplicative language that is contained in Title 33, Chapter 52, Idaho Code, adds information regarding institutions as authorized chartering entities, the authorizer fee required in section 33-5208(8), Idaho code, the petition review process, performance certificate requirements and procedures for reviewing requests for performance certificate revisions.

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

Section 33-5208, Idaho Code, requires each charter school to pay an authorizer fee to its authorized chartering entity. The fee is formula driven. The formula is defined in Section 33-5208, Idaho Code.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: None.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2013 Idaho Administrative Bulletin, [Volume 13-7, page 34](#).

**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: NA

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208)332-1582 or [tracie.bent@osbe.idaho.gov](mailto:tracie.bent@osbe.idaho.gov).

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 28, 2013.

DATED this July 5, 2013.

Tracie Bent, Chief Planning and Policy Officer  
Office of the State Board of Education  
650 W State St.  
PO Box 83720  
Boise, ID 83720-0037  
(208)332-1582, fax: (208)334-2632

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THE FOLLOWING IS THE TEMPORARY RULE AND THE TEXT OF THE PROPOSED RULE  
FOR DOCKET NO. 08-0204-1301

**010. DEFINITIONS.**

~~01. **Authorized Chartering Entity.** Is defined in Section 33-5202A(1), Idaho Code, and means either the local board of trustees of a school district in this state, or the Idaho Public Charter School Commission. (4-11-06)~~

**01. Authorizer Fee.** Fee paid by each public charter school to its authorized chartering entity. (6-20-13)T

**02. Board.** Means the Idaho State Board of Education. (4-11-06)

~~03. **Charter.** Is defined in Section 33-5202A(2), Idaho Code, and means the grant of authority approved by the authorized chartering entity to the board of directors of the charter school. (4-11-06)~~

~~04. **Commission.** Means the Idaho Public Charter School Commission, as provided by Section 33-5213, Idaho Code. (4-11-06)~~

~~05. **Department.** Means the Idaho Department of Education. (4-11-06)~~

**05. Institution.** For the purpose of this section, Institution means an Idaho public college, university of community college, or a private, nonprofit Idaho-based, nonsectarian college or university that is accredited by the same organization that accredits Idaho public colleges and universities. (6-20-13)T

~~06. **Founder.** Is defined in Section 33-5202A(3), Idaho Code, and means a person, including employees or staff of a public charter school, who makes a material contribution toward the establishment of a public charter school in accordance with criteria determined by the board of directors of the public charter school, and who is designated as such at the time the board of directors acknowledges and accepts such contribution. The criteria for determining when a person is a founder shall not discriminate against any person on any basis prohibited by the federal or state constitutions or any federal, state, or local law. The designation of a person as a founder, and the admission preferences available to the children of a founder, shall not constitute pecuniary benefits. (4-11-06)~~

~~07. **Petition.** Is defined in Section 33-5202A(4), Idaho Code, and means the document submitted by a person or persons to the authorized chartering entity to request the creation of a public charter school. (4-11-06)~~

**08. Petitioners.** Means the group of persons who submit a petition to establish a new public charter school, or to convert an existing traditional public school to a public charter school, as provided by Section 33-5205, Idaho Code, and the procedures described in Sections 200 through 205 of these rules. (4-11-06)

~~09. **Public Charter School.** Is defined in Section 33-5202A(5), Idaho Code, and means a school that is authorized under the Public Charter Schools Act, Title 33, Chapter 52, Idaho Code, to deliver public education in Idaho. (4-11-06)~~

~~10. **Public Virtual School.** Is defined in Section 33-5202A(8), Idaho Code, and means a school that delivers a full-time, sequential program of synchronous and/or asynchronous instruction primarily through the use of technology via the internet in a distributed environment. Schools classified as virtual must have an online component to their school with online lessons and tools for student and data management. (4-4-13)~~

~~H07. **School Year.** Means the period beginning on July 1 and ending the next succeeding June 30 of each year. (4-11-06)~~

011. -- 099. (RESERVED)

**100. LIMITATIONS ON NEW PUBLIC CHARTER SCHOOLS.**

**01. Responsibilities of Petitioners on Approval of Charter.** Upon the approval of a new public charter school by an authorized chartering entity, the petitioners shall provide the Board with written notice of such approval. The authorized chartering entity of the public charter school shall provide the Board with copies of the charter and any charter revisions upon request. (4-4-13)

**02. Authorization to Begin Educational Instruction.** The public charter schools authorized to begin educational instruction during a given school year shall be those public charter schools that have received approval from their authorized chartering entities to begin educational instruction ~~at some time~~ during such school year. A public charter school that is approved by an authorized chartering entity, but which does not begin educational instruction must confirm with the Board, on or before March 1 preceding the next succeeding school year, that it is able to begin educational instruction during such school year. ~~(4-4-13)~~ (6-20-13)T

**03. Notification.** The Board shall, as soon as reasonably practicable after determining that a public charter school will be authorized to begin educational instruction during a given school year, provide written notification to the petitioners. The Board shall also send a copy of such notification to the authorized chartering entity that approved the charter. (4-11-06)

**101. AUTHORIZED CHARTERING ENTITY.**

**01. Institution.** An institution shall receive approval from their governing board prior to authorizing any charter schools. (6-20-13)T

**a.** Petitions shall be submitted to the president of the institution or his designee. (6-20-13)T

**b.** An institution may approve or deny a petition, but cannot refer the petition to another authorized chartering entity. (6-20-13)T

**c.** Notwithstanding Sections 400 through 404, of these rules, denial of a new petition by an institution is final. A petitioner may submit a petition that has been denied by an institution to any authorized chartering entity. (6-20-13)T

**102. AUTHORIZER FEE.**

**01. Notification.** It is the responsibility of each authorizer to notify the Department if the authorizer fee has not been received by the date specified in Section 33-5208, Idaho Code. (6-20-13)T

**a.** The authorizer must provide notification of the delinquent fee to the charter school prior to reporting to the Department. (6-20-13)T

**b.** The authorizer must provide the amount delinquent and proof of notification to the charter school within thirty (30) days of the non-payment of the authorizer fee. (6-20-13)T

c. The Department shall withhold the amount of the delinquent fee from the next scheduled release of funds to the charter school. The funds will be withheld until the Department has received notification from the authorizer that the authorizer fee has been paid in full. (6-20-13)T

10~~4~~3. -- 199. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

201. POLICIES AND PROCEDURES ADOPTED BY AN AUTHORIZED CHARTERING ENTITY.

~~01. Charter School Policies and Procedures.~~ An authorized chartering entity may adopt its own charter school policies and procedures describing the charter school petition process and the procedures that petitioners must comply with in order to form a new public charter school, including a public virtual school. Petitioners must comply with the charter school policies and procedures adopted by the authorized chartering entity with which a petition is submitted. Such charter school policies and procedures must comply with Title 33, Chapter 52, Idaho Code, and the rules promulgated by the Board. If there is any conflict between the charter school policies and procedures adopted by an authorized chartering entity and rules promulgated by the Board, then the Board rules shall govern. (4-11-06)(6-20-13)T

~~02. Application Deadline.~~ Petitioners must submit a new petition to an authorized chartering entity by September 1 in order to be eligible to begin educational instruction for the following school year as required by Section 33-5203, Idaho Code. A petition filed after such date that is approved and the charter granted shall not be eligible to begin operations until the next succeeding school year at the earliest. (4-4-13)

(BREAK IN CONTINUITY OF SECTIONS)

203. ADMISSION PROCEDURES.

01. **Model Admission Procedures.** In accordance with Section 33-5205(3)(i), Idaho Code, a petition to establish a new public charter school must describe the admission procedures to be utilized by the public charter school. All public charter schools must have an admission procedure approved by their authorized chartering entity, which complies with Section 203 of this rule. In order to ensure that public charter schools utilize a fair and equitable selection process for initial admission to and enrollment in a public charter school, as well as admission to and enrollment in a public charter school during subsequent school years, the Board has approved model admission procedures that may be utilized and adopted by petitioners. The approved model admission procedures are described in Subsections 203.03 through 203.12 of these rules. Petitioners are not required to adopt the Board's model admission procedures, but must demonstrate a reason for varying from the Board's approved procedures. (4-11-06)(6-20-13)T

02. **Enrollment Opportunities.** Section 33-5205(3)(s), Idaho Code, requires petitioners to describe the process by which the citizens in the area of attendance shall be made aware of the enrollment opportunities of the public charter school. Petitioners shall ensure that such process includes the dissemination of enrollment information, taking into consideration the language demographics of the attendance area, at least three (3) months in advance of the enrollment deadline established by the public charter school each year, to be posted in highly visible and prominent locations within the area of attendance of the public charter school. In addition, petitioners shall ensure that such process includes the dissemination of press release or public service announcements, to media outlets that broadcast within, or disseminate printed publications within, the area of attendance of the public charter school; petitioners must ensure that such announcements are broadcast or published by such media outlets on not less than three (3) occasions, beginning not later than fourteen (14) days prior to the enrollment deadline each year. Finally, such enrollment information shall advise that all prospective students will be given the opportunity to enroll in the public charter school, regardless of race, color, national or ethnic origin, religion, gender, social or economic status,

or special needs. (4-11-06)

**03. Enrollment Deadline.** Each year a public charter school shall establish an enrollment admissions deadline, which shall be the date by which all written requests for admission to attend the public charter school for the next school year must be received. The enrollment deadline cannot be changed once the enrollment information is disseminated as required by Subsection 203.02. (4-11-06)

**04. Requests for Admission.** A parent, guardian, or other person with legal authority to make decisions regarding school attendance on behalf of a child in this state, may make a request in writing for such child to attend a public charter school. In the case of a family with more than one (1) child seeking to attend a public charter school, a single written request for admission must be submitted on behalf of all siblings. The written request for admission must be submitted to, and received by, the public charter school at which admission is sought on or before the enrollment deadline established by the public charter school. The written request for admission shall contain the name, grade level, address, and telephone number of each prospective student in a family. If the initial capacity of the public charter school is insufficient to enroll all prospective students, then an equitable selection process, such as a lottery or other random method, shall be utilized to determine which prospective students will be admitted to the public charter school, as described in Subsection 203.09 of this rule. Only those written requests for admission submitted on behalf of prospective students that are received prior to the enrollment deadline established by the public charter school shall be permitted in the equitable selection process. Only written requests for admission shall be considered by the public charter school. Written requests for admission received after the established enrollment deadline will be added to the bottom of the waiting list for the appropriate grade. If there is an opening in one grade, a sibling, if any, from a late submitted application must go to the bottom of the sibling list. (4-11-06)

**05. Admission Preferences.** A public charter school shall establish an admission preference for students residing in the attendance area of the public charter school, as provided in Section 33-5206, Idaho Code. In addition, a public charter school may establish **additional** admission preferences, as authorized by Section 33-5205(3)(i), Idaho Code, ~~for students returning to the public charter school, for children of founders, and for siblings of students already selected to attend the public charter school. Such admission preferences must be approved by the authorized chartering entity and described in the final approved petition.~~ (4-11-06)(6-20-13)T

~~**06. Priority of Preferences for Initial Enrollment.** If a public charter school determines to establish admission preferences for initial enrollment of students in a public charter school, then the selection hierarchy with respect to such preferences shall be as follows: (4-11-06)~~

~~**a.** First, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the initial capacity of the public charter school. If so stated in its petition, a new public charter school may include within this priority group the children of full-time employees, subject to the provisions of Section 33-5205(3)(k), Idaho Code. (4-11-06)~~

~~**b.** Second, to siblings of pupils already selected by the lottery or other random method. (4-11-06)~~

~~**c.** Third, to prospective students residing in the attendance area of the public charter school. (4-11-06)~~

~~**d.** Fourth, an equitable selection process, such as by lottery or other random method. (4-11-06)~~

~~**07. Priority of Preferences for Subsequent Enrollment Periods.** If a public charter school determines to establish admission preferences for enrollment of students in a public charter school in subsequent school years, then the selection hierarchy with respect to such preferences shall be as follows: (4-11-06)~~

~~**a.** First, to pupils returning to the public charter school in the second or any subsequent year of operation. Returning students are automatically enrolled in the appropriate grade and do not need to be selected by a random selection method. (4-11-06)~~

~~**b.** Second, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school. If so stated in its petition, a public charter school may include within this priority group the children of full-time employees and/or children withdrawn from the~~

~~public charter school within the previous three (3) years as a result of the relocation of a parent or guardian due to an academic sabbatical, employer or military transfer or reassignment, subject to the provisions of Section 33-5205(3)(k)(i-ii), Idaho Code.~~ (4-4-13)

- ~~e. Third, to siblings of pupils already enrolled in the public charter school. (4-11-06)~~
- ~~d. Fourth, to prospective students residing in the attendance area of the public charter school. (4-11-06)~~
- ~~e. Fifth, an equitable selection process, such as by lottery or other random method. (4-11-06)~~

**086. Proposed Attendance List for Lottery.** Each year the public charter school shall create an attendance list containing the names of all prospective students on whose behalf a written request for admission was timely received by the public charter school, separated by grade level. In addition, the proposed attendance list shall contain columns next to the name of each student, in which the public charter school will designate admission preferences applicable to each prospective student. The columns shall be designated “A” for returning student preference; “B” for founders preference; “C” for sibling preference, with a corresponding cross-reference to each of the siblings of the prospective student; and “D” for attendance area preference. (4-11-06)

**097. Equitable Selection Process.** If the initial capacity of a public charter school is insufficient to enroll all prospective students, or if capacity is insufficient to enroll all prospective students in subsequent school years, then the public charter school shall determine the students who will be offered admission to the public charter school by conducting a fair and equitable selection process. The selection procedure shall be conducted as follows: (4-11-06)

**a.** The name of each prospective student on the proposed attendance list shall be individually affixed to or written on a three by five (3 x 5) inch index card. The index cards shall be separated by grade. The selection procedure shall be conducted one (1) grade level at a time, with the order for each grade level selected randomly. The index cards containing the names of the prospective students for the grade level being selected shall be placed into a single container. (4-11-06)

**b.** A neutral, third party shall draw the grade level to be completed first and then draw each index card from the container for that grade level, and such person shall write the selection number on each index card as drawn, beginning with the numeral “1” and continuing sequentially thereafter. In addition, after selecting each index card, the name of the person selected will be compared to the proposed attendance list to determine whether any preferences are applicable to such person. (4-11-06)

**c.** If the name of the person selected is a returning student, then the letter “A” shall be written on such index card. If the name of the person selected is the child of a founder, the letter “B” shall be written on such index card. If the name of the person selected is the sibling of another student that has already been selected for admission to the public charter school, then the letter “C” shall be written on such index card. If the name of the person selected resides in the attendance area of the public charter school, then the letter “D” shall be written on such index card. (4-11-06)

**d.** With regard to the sibling preference, if the name of the person selected has a sibling who has already been selected, but the person previously selected did not have the letter “C” written on his or her index card (because a sibling had not been selected for admission prior to the selection of the index card of that person), then the letter “C” shall now be written on that person’s index card at this time. (4-4-13)

**e.** With regard to the founder’s preference, a running tally shall be kept during the course of the selection procedure of the number of index cards, in the aggregate, that have been marked with the letter “B.” When the number of index cards marked with the letter “B” equals ten percent (10%) of the proposed capacity of the public charter school for the school year at issue, then no additional index cards shall be marked with the letter “B,” even if such person selected would otherwise be eligible for the founders preference. (4-11-06)

**f.** After all index cards have been selected for each grade, then the index cards shall be sorted for each grade level in accordance with the following procedure. All index cards with the letter “A” shall be sorted first, based

on the chronological order of the selection number written on each index card; followed by all index cards with the letter "B," based on the chronological order of the selection number written on each index card; followed by all index cards with the letter "C," based on the chronological order of the selection number written on each index card; followed by all index cards with the letter "D," based on the chronological order of the selection number written on each index card; followed, finally, by all index cards containing no letters, based on the chronological order of the selection number written on each index card. (4-11-06)

**g.** After the index cards have been drawn and sorted for all grade levels, the names shall be transferred by grade level, and in such order as preferences apply, to the final selection list. (4-11-06)

**~~108.~~ Final Selection List.** The names of the persons in highest order on the final selection list shall have the highest priority for admission to the public charter school in that grade, and shall be offered admission to the public charter school in such grade until all seats for that grade are filled. (4-11-06)

**~~109.~~ Notification and Acceptance Process.** (4-11-06)

**a.** With respect to students selected for admission to the public charter school, within seven (7) days after conducting the selection process, the public charter school shall send an offer letter to the parent, guardian, or other person who submitted a written request for admission on behalf of a student, advising such person that the student has been selected for admission to the public charter school. The offer letter must be signed by such student's parent, or guardian, and returned to the public charter school by the date designated in such offer letter by the public charter school. (4-11-06)

**b.** With respect to a prospective student not eligible for admission to the public charter school, within seven (7) days after conducting the selection process, the public charter school shall send a letter to the parent, guardian, or other person who submitted a request for admission on behalf of such student, advising such person that the prospective student is not eligible for admission, but will be placed on a waiting list and may be eligible for admission at a later date if a seat becomes available. (4-11-06)

**c.** If a parent, guardian, or other person receives an offer letter on behalf of a student and declines admission, or fails to timely sign and return such offer by the date designated in such offer letter by the public charter school, then the name of such student will be stricken from the final selection list, and the seat that opens in that grade will be made available to the next eligible student on the final selection list. (4-11-06)

**d.** If a student withdraws from the public charter school during the school year for any reason, then the seat that opens in that grade will be made available to the next eligible student on the final selection list. (4-11-06)

**~~120.~~ Subsequent School Years.** The final selection list for a given school year shall not roll over to the next subsequent school year. If the capacity of the public charter school is insufficient to enroll all prospective students during the next subsequent school year, then a new equitable selection process shall be conducted by the public charter school for such school year. (4-11-06)

~~**13. Admission Procedures for Approved Charter Schools.** All public charter schools must have an admission procedure approved by their authorized chartering entity, which complies with Section 203 of this rule. (4-11-06)~~

**204. ~~SUBMISSION OF PETITION.~~ (RESERVED)**

~~**01. New Public Charter School.** To institute the approval process for the formation of a new public charter school, the petitioners must submit the petition to the local board of trustees of the school district in which the proposed new public charter school will be located, as required by Section 33-5205(1)(a), Idaho Code. (4-11-06)~~

~~**02. New Public Virtual School.** The petitioners for a new public virtual school must submit the petition for approval with the Commission, as required by Section 33-5205(1)(b), Idaho Code. (4-11-06)~~

~~**03. Notification to the Board.** Petitioners shall promptly notify the Board that a petition has been~~

~~submitted to an authorized chartering entity.~~

~~(4-11-06)~~

205. REVIEW OF PETITIONS.

01. **Initial Sufficiency Review of Petition.** Prior to submitting a petition with an authorized chartering entity, petitioners shall submit one (1) copy of the proposed draft petition to the Department, which shall review the proposed draft petition for the purpose of determining whether it was prepared in accordance with the instructions furnished by, and in the format required by, the Board, and contains the information required by Section 33-5205, Idaho Code. ~~(4-4-13)~~(6-20-13)T

02. **Timeframe for Initial Sufficiency Review.** The Department shall complete the *initial sufficiency* review of the proposed draft petition as soon as reasonably practicable after the date the proposed draft petition is received by the Department, but not later than thirty (30) days after receipt. ~~(4-11-06)~~(6-20-13)T

03. **Notification of Findings After Initial Sufficiency Review.** The Department shall notify the petitioners promptly in writing describing the results of the *initial sufficiency* review of the proposed draft petition, and, if applicable, identify any deficiencies in the proposed draft petition. ~~(4-11-06)~~(6-20-13)T

04. ~~Written Response to Initial Review. Petitioners shall include a copy of the Department's final review of the proposed draft petition, and a written response to the findings of such review, with the petition upon submission to an authorized chartering entity. Deficiencies in the petition identified by the Department's initial review shall be addressed in the written response.~~ **Correction of Deficiencies in Proposed Draft Petition.** Petitioners shall address any deficiencies in the proposed draft petition and shall resubmit the petition to the Department for additional reviews until the Department determines that the petition is sufficient. ~~(4-4-13)~~(6-20-13)T

05. **Substantive Review of Petition.** The substantive review of the merits of a petition by an authorized chartering entity shall be for the purpose of determining whether petitioners have demonstrated compliance with Title 33, Chapter 52, Idaho Code. (4-11-06)

~~06. Timeframe for Substantive Review. An authorized chartering entity must comply with the procedural requirements described in Section 33-5205, Idaho Code.~~ (4-11-06)

~~a. Unless a petition is referred to the Commission as authorized by Section 33-5205(1)(c)(iii), Idaho Code, and as discussed in Subsection 206.01 of these rules, an authorized chartering entity must hold a public hearing not later than seventy five (75) days after receipt of the petition, for the purpose of considering the merits of the petition, as well as the level of employee and parental support for the proposed public charter school. In the case of a petition being reviewed by the Commission, the public hearing must also include any oral or written comments, if any, from an authorized representative of the school district in which the proposed public charter school would be physically located regarding the merits of the petition and any potential impacts on the school district.~~ (4-4-13)

~~b. An authorized chartering entity must make a decision on whether to approve the petition within seventy five (75) days after the date of the public hearing on the merits of the petition.~~ (4-4-13)

~~c. The authorized chartering entity may unilaterally determine to extend the date by which a decision is required to be made up to an additional seventy five (75) days if it determines the petition is incomplete.~~ (4-4-13)

~~d. The Commission and the petitioners may mutually agree to extend the date by which a decision is required to be made on the merits of the petition for an additional, specified period of time.~~ (4-4-13)

~~07. If Approved, Charter Is Subject to Limitations on Number of New Charters. If a petition is approved, then the authorized chartering entity must promptly prepare for petitioners a written notice of its decision to approve the charter. It shall be the responsibility of the petitioners to provide the Board with this written notice of approval.~~ (4-4-13)

~~08.6.~~ **If Denied, Petitioners May Appeal.** (4-11-06)

a. If a petition is denied, then the authorized chartering entity must promptly prepare for petitioners a

written notice of its decision to deny the charter. The written decision shall include all of the reasons for the denial, and shall also include a reasoned statement that states or explains the criteria and standards considered relevant by the authorized chartering entity, the relevant contested facts relied upon, and the rationale for the decision based on the applicable statutory provisions and factual information presented to the authorized chartering entity. (4-11-06)

b. Petitions submitted to a local board of trustees of a school district or the public charter school commission may be appealed. The petitioners may appeal the decision of the authorized chartering entity, in accordance with the procedures described in Sections 401 through 402 of these rules. ~~(4-11-06)~~(6-20-13)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**300. PUBLIC CHARTER SCHOOL RESPONSIBILITIES.**

**01. General.** The governing board of a public charter school shall be responsible for ensuring that the public charter school is adequately staffed, and that such staff provides sufficient oversight over all public charter school operational and educational activities. In addition, the governing board of a public charter school shall be responsible for ensuring ~~compliance with Title 33, Chapter 52, Idaho Code~~ that the school complies with all applicable federal and state education standards, as well as all applicable state and federal laws, rules and regulations, and policies. ~~(4-11-06)~~(6-20-13)T

**02. Compliance with Terms of Charter Performance Certificate.** The governing board of a public charter school shall be responsible for ensuring that the school is in compliance with ~~all of the terms and conditions of the charter performance certificate approved by the authorized chartering entity of the school, as reflected in the final approved petition filed with the Board. In addition, the governing board of the public charter school shall be responsible for ensuring that the school complies with all applicable federal and state education standards, as well as all applicable state and federal laws, rules and regulations, and policies~~ executed in accordance with Section 33-5205B(1), Idaho Code. ~~(4-11-06)~~(6-20-13)T

**03. Annual Reports.** The governing board of a public charter school must submit an annual ~~report to the authorized chartering entity of the school, as required by Section 33-5206(7), Idaho Code. The report shall contain the~~ audit of the fiscal ~~and programmatic~~ operations as required in Section 33-5205~~6(3)~~(j), Idaho Code, ~~a report on student progress based on the public charter school's student educational standards identified in Section 33-5205(3)(b), Idaho Code,~~ and a copy of the public charter school's accreditation report. An authorized chartering entity may reasonably request that a public charter school provide additional information to ensure that the public charter school is meeting the terms of its charter performance certificate. ~~(4-11-06)~~(6-20-13)T

**04. Operational Issues.** The governing board of the public charter school shall be responsible for promptly notifying its authorized chartering entity if it becomes aware that the public charter school is not operating in compliance with the terms and conditions of its charter performance certificate. Thereafter, the governing board of the public charter school shall also be responsible for advising its authorized chartering entity with follow-up information as to when, and how, such operational issues are finally resolved and corrected. ~~(4-11-06)~~(6-20-13)T

**301. AUTHORIZED CHARTERING ENTITY RESPONSIBILITIES.**

~~01. Compliance Monitoring.~~ Notwithstanding Section 300 of these rules, the authorized chartering entity of a public charter school shall be responsible for ensuring that monitoring the public charter school's operates operations in accordance with all of the terms and conditions of the ~~charter approved by the authorized chartering entity, as reflected in the final approved petition filed with the Board, and as provided by Section 33-5209(1), Idaho Code. The authorized chartering entity also shall be responsible for ensuring that the public charter school program approved by the authorized chartering entity meets the terms of the charter, complies with the general education laws of the state, unless specifically directed otherwise in Title 33, Chapter 52, Idaho Code, and operates in accordance with the state educational standards of thoroughness as defined in Section 33-1612, Idaho Code, as provided in Section 33-5210(2), Idaho Code~~ performance certificate. ~~(4-11-06)~~(6-20-13)T

~~02. **Written Notice of Defect.** If an authorized chartering entity has reason to believe that a public charter school has committed any defect identified in Subsections 33-5209(2)(a) through (e), Idaho Code, then the authorized chartering entity shall provide the public charter school with prompt written notice of such defect, and shall provide the public charter school a reasonable opportunity to cure such defect. (4-11-06)~~

~~03. **Corrective Action Plan.** The public charter school shall provide the authorized chartering entity with a corrective action plan describing the public charter school's plan to cure the defect. The corrective action plan shall describe in detail the terms and conditions by which the public charter school will cure the defect at issue, including a reasonable time frame for completion. (4-4-13)~~

~~04. **Failure to Cure.** If a public charter school fails to comply with the terms and conditions of the corrective action plan and to cure the defect at issue within a reasonable time, then the authorized chartering entity may provide notice to the public charter school of its intent to revoke the charter, as permitted by Section 33-5209(3), Idaho Code, and in accordance with Section 303 of these rules. (4-11-06)~~

### 302. CHARTER REVISIONS.

The governing board of a public charter school may reasonably request ~~that its authorized chartering entity revise its~~ revisions to an approved charter or performance certificate, as authorized by Section 33-5209~~6~~<sup>6</sup>(~~8~~), Idaho Code. ~~(4-11-06)~~(6-20-13)T

**01. Request for Revision of Charter.** The governing board of a public charter school that desires to revise its charter must submit a written request describing the proposed revisions with the public charter school's authorized chartering entity. In addition, the governing board of the public charter school shall also submit one (1) copy of the proposed revisions to the Department, which shall review the proposed revisions in the same manner that it reviews a proposed draft petition, as described in Section 204 of these rules. The Department shall complete its review of the proposed charter revisions not later than thirty (30) days after receipt, and shall notify the governing board of the public charter school and the authorized chartering entity promptly in writing describing the results of such review. ~~(4-4-13)~~(6-20-13)T

~~02. **Limited Review.** The authorized chartering entity shall only be permitted to review and consider the proposed revisions to the charter, and shall not have authority to make other charter revisions that are not requested by the public charter school. **Request for Revision of Performance Certificate.** The governing board of a public charter school that desires to revise its performance certificate must submit a written request and the proposed revisions to the public charter school's authorized chartering entity. (4-11-06)~~(6-20-13)T

**03. Procedure for Reviewing Request for Charter Revision.** The authorized chartering entity shall have seventy-five (75) days from the date of receipt of the written notice from the Department in which to issue its decision on the request for charter revision. The authorized chartering entity shall consider the request for charter revision at its next regular meeting following the date of receipt of the written notice from the Department, provided that the request is submitted no fewer than thirty (30) days an advance of that meeting. If permitted by applicable policies and procedures adopted by the authorized chartering entity, the review of a request for a charter revision may be delegated to appropriate staff employed by the authorized chartering entity. An authorized chartering entity may, but is not required to, conduct a public hearing to consider the request for charter revision. (4-4-13)

**04. Procedure for Reviewing Request for Performance Certificate Revision.** The authorized chartering entity shall have seventy-five (75) days from the date of receipt of a request for performance certificate revision in which to issue its decision on the request for performance certificate revision. The authorized chartering entity shall consider the request for performance certificate revision at its next regular meeting following the date of receipt of the request for revision, provided that the request is submitted no fewer than thirty (30) days an advance of that meeting. If permitted by applicable policies and procedures adopted by the authorized chartering entity, the review of a request for a performance certificate revision may be delegated to appropriate staff employed by the authorized chartering entity. An authorized chartering entity may, but is not required to, conduct a public hearing to consider the request for performance certificate revision. (6-20-13)T

~~04.5.~~ **Approval of Proposed Charter or Performance Certificate Revision.** If the authorized chartering entity approves the proposed charter or performance certificate revision, a copy of such revision shall be executed by each of the parties to the charter ~~contract~~ or performance certificate and shall be treated as either a

supplement to, or amendment of, the final approved petition or performance certificate, whatever the case may be. ~~(4-1-13)~~(6-20-13)T

**056. Denial of Proposed Charter or Performance Certificate Revision.** If the proposed revision is denied, then the authorized chartering entity must prepare a written notice of its decision denying the request for charter or performance certificate revision. The decision to deny a request for a charter or performance certificate revision shall contain all of the reasons for the decision. The public charter school may appeal the decision denying the request for charter or performance certificate revision to the Board. The provisions of Section 403 of these rules shall govern the appeal. ~~(4-11-06)~~(6-20-13)T

**303. REVOCATION.**

An authorized chartering entity may revoke a charter in accordance with the procedure described in this Section 303 of this rule if a public charter school has failed to ~~cure a defect with respect to the operation of the public charter school, as described in Subsection 301.04 of these rules, after receiving reasonable notice and a reasonable opportunity to cure the defect~~ meet any of the specific, written conditions for necessary improvements established pursuant to the provisions of Section 33-5209B(1), Idaho Code, by the dates specified. ~~(4-11-06)~~(6-20-13)T

**01. Written Notice of Intention to Revoke Charter.** The authorized chartering entity must provide the public charter school with reasonable notice of the authorized chartering entity's intent to revoke the charter, which shall be in writing and must include all of the reasons for such proposed action. In addition, such notice shall provide the public charter school with a reasonable opportunity to reply, which shall not be less than thirty (30) days after the date of such notice. (4-11-06)

**02. Public Hearing.** The authorized chartering entity shall conduct a public hearing with respect to its intent to revoke a charter. Such hearing shall be held no later than thirty (30) days after receipt of such written reply. If the public charter school does not reply by the date set in the notice, then such hearing shall be held no later than sixty (60) days after the date the notice was sent by the authorized chartering entity. (4-11-06)

**a.** Written notification of the hearing shall be sent to the public charter school at least ten (10) days in advance of the hearing. (4-11-06)

**b.** The public hearing shall be conducted by the authorized chartering entity, or such other person or persons appointed by the authorized chartering entity to conduct public hearings and receive evidence as a contested case in accordance with Section 67-5242, Idaho Code. (4-11-06)

**03. Charter Revocation.** If the authorized chartering entity determines that the public charter school has not complied with the corrective action plan and cured the defect at issue, then the authorized chartering entity may revoke the charter. Such decision may be appealed to the Board. The provisions of Section 403 of these rules shall govern the appeal. (4-11-06)

**304. -- 399. (RESERVED)**

**400. APPEALS.**

The following actions relating to public charter schools may be appealed to the Department or to the Board, as applicable, in accordance with the procedures described in Sections 401 through 403 of these rules: (4-11-06)

**01. Denial of New Petition.** The denial by an authorized chartering entity of a petition to form a new public charter school, as authorized by Section 33-5207, Idaho Code. (4-11-06)

**02. Approval of Conversion Petition.** The approval of a petition by an authorized chartering entity to convert a traditional public school to a public charter school over the objection of thirty (30) or more persons or employees of the local school district, as authorized by Section 33-5207, Idaho Code. (4-11-06)

**03. Denial of Charter or Performance Certificate Revision.** The denial by the authorized chartering entity of a public charter school of a request to revise a charter or performance certificate, as authorized by Section 33-5209~~6~~(~~7~~8), Idaho Code. ~~(4-11-06)~~(6-20-13)T

**04. Revocation.** A decision of an authorized chartering entity to revoke a charter, as authorized by Section 33-5209C(47), Idaho Code. ~~(4-11-06)~~(6-20-13)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**403. APPEAL RELATING TO THE DENIAL OF A REQUEST TO REVISE A CHARTER OR PERFORMANCE CERTIFICATE OR A CHARTER NON-RENEWAL OR REVOCATION DECISION.**

The following procedures shall govern an appeal relating to the denial of a request to revise a charter or a charter non-renewal or revocation decision. ~~(4-11-06)~~(6-20-13)T

**01. Submission of Appeal.** The public charter school shall submit a notice of appeal in writing to the Board that describes, in detail, all of the grounds for the appeal, and the remedy requested, within thirty (30) days from the date of the written decision of the authorized chartering entity to non-renew or revoke a charter or to deny a charter or performance certificate revision. A copy of the notice of appeal shall be submitted to the authorized chartering entity. In addition, contemporaneous with the submission of the notice of appeal, the appellant charter school shall also submit to the Board ~~eleven (11), three (3)-holed punched, copies~~ one (1) hard copy and one (1) electronic copy of the complete record of all actions taken with respect to the matter being appealed. The record must be in chronological order and must be appropriately tabbed and indexed. The record must contain, at a minimum, all of the following documents: ~~(4-11-06)~~(6-20-13)T

**a.** The name, address, and telephone number of the appellant public charter school and the authorized chartering entity that issued the decision being appealed. (4-11-06)

**b.** Copies of all correspondence or other documents between the appellant public charter school and the authorized chartering entity relating to the matter being appealed. (4-11-06)

**c.** Copies of audio or video recordings, if any, and the minutes from all meeting(s) where the matter on appeal was considered or discussed. (4-11-06)

**d.** The written decision provided by the authorized chartering entity to the appellant public charter school. (4-11-06)

**02. Public Hearing.** A public hearing to review the decision of the authorized chartering entity shall be conducted within thirty (30) days after the date of the filing of the notice of appeal. (4-11-06)

**03. Notice of Hearing.** All parties in an appeal shall be notified of a public hearing at least ten (10) days in advance, or within such time period as may be mandated by law. The notice shall identify the time and place of the hearing; a statement of the legal authority under which the hearing is to be held; the particular sections of the statutes and any rules involved; the issues involved; and the right to be represented. The notice shall identify how and when documents for the hearing will be provided to all parties. (4-11-06)

**04. Appointment of Charter Appeal Committee or Public Hearing Officer.** The Board may, in its reasonable discretion, determine to appoint a charter appeal committee, composed solely of Board members, or a combination of Board members and Board staff, or alternatively, to appoint a public hearing officer, for the purpose of conducting the public hearing. If the Board determines not to make such an appointment, then the Board shall conduct the public hearing. (4-11-06)

**05. Prehearing Conference.** The entity conducting the public hearing may, upon written or other sufficient notice to all interested parties, hold a prehearing conference to formulate or simplify the issues; obtain admissions or stipulations of fact and documents; identify whether there is any additional information that had not been presented to the authorized chartering entity; arrange for exchange of any proposed exhibits or prepared expert testimony; limit the number of witnesses; determine the procedure at the hearing; and to determine any other matters which may expedite the orderly conduct and disposition of the proceeding. (4-11-06)

**06. Hearing Record.** The hearing shall be recorded unless a party requests a stenographic recording by a certified court reporter, in writing, at least seven (7) days prior to the date of the hearing. Any party requesting a

stenographic recording by a certified court reporter shall be responsible for the costs of same. The record shall be transcribed at the expense of the party requesting a transcript, and prepayment or guarantee of payment may be required. Once a transcript is requested, any party may obtain a copy at the party's own expense. (4-11-06)

**07. Recommended Findings.** If the public hearing is conducted by a charter appeal committee or appointed public hearing officer, then such committee or public hearing officer shall forward to the Board all materials relating to the hearing as soon as reasonably practicable after the date of the public hearing. If so requested by the Board, the entity conducting the public hearing may prepare recommended findings for the Board to consider. The recommended findings shall include specific findings on all major facts at issue; a reasoned statement in support of the recommendation; all other findings and recommendations of the charter appeal committee or public hearing officer; and a recommended decision affirming, or reversing the action or decision of the authorized chartering entity. A copy of the recommended findings shall be mailed or delivered to all the parties. (4-11-06)

**08. Final Decision and Order by the Board.** The Board shall consider the materials forwarded by the entity conducting the public hearing, including any recommended findings of the charter appeal committee or appointed public hearing officer, as may be applicable, in a meeting open to the public at the next regularly scheduled meeting of the Board that occurs after the public hearing. If the public hearing was not conducted by the Board, then the Board may allow representatives for both the appellant public charter school and the authorized chartering entity an opportunity to deliver oral arguments to the Board advocating their respective positions, limited to thirty (30) minutes for each party. Whether the public hearing is conducted by the Board, or by a charter appeal committee or appointed public hearing officer, the Board shall issue a final written decision on such appeal within sixty (60) days from the date of the public hearing. The decision shall be sent to both the appellant public charter school and the authorized chartering entity. With respect to such written decision, the Board may take any of the following actions: (4-11-06)

a. Grant the appeal and reverse the decision of the authorized chartering entity if the Board determines that the authorized chartering entity failed to appropriately consider the non-renewal or revocation of the charter, or the request to revise the charter or performance certificate, or that the authorized chartering authority acted in an arbitrary manner in determining to non-renew or revoke the charter, or in denying the request to revise the charter or performance certificate. (4-11-06)(6-20-13)T

b. ~~Remand the matter back to the authorized chartering entity for further consideration with directions or instructions relating to such further review. If the authorized chartering entity further considers the matter and again denies the petition, then that decision is final and there shall be no further appeal. In the case of a denial by the board of a local school district, redirect the matter to the public charter school commission for further review.~~ (4-4-13)(6-20-13)T

c. Deny the appeal filed by the appellants. (4-11-06)

**(BREAK IN CONTINUITY OF SECTIONS)**

**500. MISCELLANEOUS.**

**01. Definition of LEA.** As used in Section 500 of these rules, the term "local education agency" or "LEA" shall mean a public authority legally constituted within the state for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in the state, as such term is defined in the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001, and as such term is further defined in 34 CFR 300.18. (4-11-06)

**02. LEA Designations.** Section 33-5203(7), Idaho Code, provides that the ~~Board shall be responsible to designate those public charter schools that will be identified as an LEA; however, only public charter schools chartered by the board of trustees of a school district may be included in that district's LEA. A public charter school may request to be designated as an LEA. Such request shall be in writing and must be submitted to the executive director of the Board. In addition, such request shall state the reasons why the public charter school is requesting~~

~~LEA status, and must include, at a minimum, the following~~ board of trustees of a school district may designate a public charter school it authorizes as an LEA, with the concurrence of the public charter school board of directors. In order to designate a public charter school as an LEA, the board of trustees of the school district must submit to the Department the following no later than February 1 in order for any such designation to be effective for the following school year: (4-11-06)(6-20-13)T

~~a. Verification that the public charter school is a public virtual school under Idaho law (if applicable).~~ Verification that the board of trustees is the authorized chartering entity of the public charter school it wishes to designate as an LEA. (4-11-06)(6-20-13)T

~~b. A description of the federal programs for which the public charter school will seek funding, and a detailed discussion of the projected financial impact (positive or negative) to the public charter school if it is designated an LEA.~~ Written documentation that the board of trustees of the school district and the board of trustees of the public charter school have agreed to the designation of the public charter school as an LEA. Such documentation shall be signed by representatives of both parties. (4-11-06)

~~e. A discussion of how the public charter school will administer the ISAT tests to its students.~~ (4-11-06)

~~03. Criteria. The executive director of the Board shall have the authority to designate a public charter school as an LEA, in accordance with the following criteria:~~ (4-11-06)

~~a. A public charter school that is chartered by the board of trustees of a school district shall be included in that district's LEA, and the executive director of the Board shall not be permitted to designate such a school as an LEA.~~ (4-4-13)

~~b. A public charter school that is chartered by the Commission must be designated by the executive director as an LEA, but will still be required to submit a written request pursuant to Subsection 500.02 of these rules.~~ (4-11-06)

~~04. Referral to the Board. The executive director may determine to refer any request for LEA designation described in Section 500 of these rules to the Board for consideration, including any request submitted by a public charter school that is not eligible under the criteria contained herein.~~ (4-11-06)

~~05. Review. A public charter school may appeal to the Board a decision made by the executive director of the Board to deny a request to be designated an LEA.~~ (4-11-06)

~~06. Timeframe for LEA Request. A request for LEA status must be received no later than February 1 in order for any such designation to be effective for the following school year.~~ (4-11-06)

# **IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

## **08.03.01 - RULES OF THE PUBLIC CHARTER SCHOOL COMMISSION**

**DOCKET NO. 08-0301-1301**

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

**EFFECTIVE DATE:** The effective date of the temporary rule is June 20, 2013.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 33-105, 33-5203, and 33-5210(4)(e), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2013.

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:

Changes under consideration bring IDAPA 08.03.01 into alignment with the legislative changes made in 2013 and clarify the process for the implementation of the new accountability measure requirements. Specific changes remove the requirement for an annual programmatic operations audit and student goals attainment report. Additional changes removed duplicative language contained in the public hearing process required by Section 33-5205(2), Idaho Code.

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

During the 2013 Legislative session changes were made to Title 33, Chapter 52 Idaho code allowing for the implementation of new accountability measures and changes to the makeup of the Charter Commission. Proposed amendments will bring IDAPA 08.03.01 into alignment with the legislative changes.

**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: None.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2013 Idaho Administrative Bulletin, [Volume 13-7, page 35](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208)332-1582 or [tracie.bent@osbe.idaho.gov](mailto:tracie.bent@osbe.idaho.gov).

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 28, 2013.

DATED this July 5, 2013.

Tracie Bent, Chief Planning and Policy Officer  
Office of the State Board of Education  
650 W State St.  
PO Box 83720  
Boise, ID 83720-0037  
(208)332-1582, fax: (208)334-2632

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**THE FOLLOWING IS THE TEMPORARY RULE AND THE TEXT OF THE PROPOSED RULE  
FOR DOCKET NO. 08-0301-1301**

**300. PETITION -- SUBMISSION.**

**01. Number of Copies.** Petitioners shall submit a petition consisting of an electronic copy of the petition in Microsoft® Word format. Appendices to the petition must be submitted as a single document and may be in Adobe® format (PDF). (4-4-13)

**02. Case Number.** The Commission will assign a case number to a petition. Any future documents or correspondence submitted to the Commission after original filing must reference the assigned case number. (4-11-06)

**03. Administratively Complete.** If the petition is not administratively complete when received, the Commission shall provide the petitioner notice of the deficiency, which identifies the missing documents and information. Administratively complete means the petition contains all of the information and documents required by Title 33, Chapter 52, Idaho Code, ~~and~~ IDAPA 08.02.04, "Rules Governing Public Charter Schools," ~~and IDAPA 08.03.01, "Rules of the Public Charter School Commission."~~ (4-11-06)(6-20-13)T

**04. Considered Received.** A petition is considered received by the Commission when it is presented to the Commission at the first scheduled meeting after the petition is filed and the petition is administratively complete. (4-11-06)

**05. Supplemental Information.** Submission of supplemental information to the Commission shall be accomplished by filing a complete, electronic copy of the petition, with the text to be removed stricken and the new language underlined, with the date of revision noted on the title page. (4-4-13)

**06. Sufficiency Review.** Petitioners shall submit a copy of the State Department of Education's sufficiency review, which is required by IDAPA 08.02.04, "Rules Governing Public Charter Schools," Subsection 200.03, ~~and any related documents addressing the deficiencies, if any,~~ at the time the petition is filed with the Commission. (4-11-06)(6-20-13)T

~~**07. School District Comments.** If applicable, school districts may provide comments of the school district where the public charter school will be physically located. (4-11-06)~~

**301. COMPLIANCE MONITORING.**

The Commission shall be responsible for ~~ensuring~~ monitoring the public charter school's ~~operates~~ operations in accordance with all of the terms and conditions of the ~~approved charter~~ performance certificate, including compliance with all applicable federal and state education standards and all applicable state and federal laws, rules and regulations, and policies. See IDAPA 08.02.04, "Rules Governing Public Charter Schools," Subsection 301.01. Commission staff will make a site visit and verify the existence of the following documents after the charter is granted: (4-11-06)(6-20-13)T

**01. Certificate of Occupancy.** Certificate of Occupancy for the public charter school site; (4-4-13)

- 02. Building Inspection Reports.** A copy of the inspection report from the Idaho Division of Building Safety; (4-4-13)
- 03. Fire Marshal Report.** A fire marshal report for the public charter school site; (4-11-06)
- 04. Insurance Binders.** Copies of insurance binders from a company authorized to do business in Idaho for a liability policy, a property loss policy, worker's compensation insurance, unemployment insurance, and health insurance; (4-4-13)
- 05. Health District Inspection Certificate.** A copy of the health certificate issued by the health district for each site at which students will be taught; (4-11-06)
- 06. Criminal History Checks.** A copy of the criminal history checks for all employees as required by Sections 33-130 and 33-5210(4)(d), Idaho Code; (4-4-13)
- 07. Instructional Staff Certification.** Proof of certification for all instructional staff employed by the public charter school; and (4-4-13)
- 08. School Calendar.** The school's calendar for the school year, daily schedule, and documentation of the appropriate number of instructional hours for students at each grade level. (4-4-13)
- 302. REQUIRED DOCUMENTS PUBLIC CHARTER SCHOOLS AUTHORIZED BY THE COMMISSION MUST SUBMIT TO THE COMMISSION.**

- 01. Lease Agreement.** If school structures are leased, a copy of the lease agreement for the building(s) at which students will be taught; (4-4-13)
- 02. Financial Statements.** Audited financial statements from an independent auditor must be submitted as required by Section 33-701, Idaho Code; (4-4-13)
- 03. Accreditation Reports.** A copy of the public charter school's accreditation report as required by Section 33-5206(7), Idaho code, must be submitted within five (5) business days of receipt; (4-4-13)
- 04. Complaints.** Copies of any complaints filed against the public charter school including, but not limited to, lawsuits and complaints filed with the Idaho Professional Standards Commission relating to school employees, within five (5) business days of receipt; (4-4-13)
- 05. Board Members.** A current list of all public charter school board members, including full name, address, telephone number, and resume must be on file with the Commission within five (5) business days of any changes; (4-4-13)
- ~~**06. Goals Attainment.** A report, as required by Section 33-5206(7), Idaho Code, by the close of the school year demonstrating the students' level of attainment of the established skills and knowledge specified as goals in the public charter school's educational program and measurable student educational standards in the approved charter; (4-4-13)~~
- ~~**07. Programmatic Operations Audit.** An audit of the programmatic operations of the public charter school as required by Section 33-5205(3)(1), Idaho Code, must be submitted no later than August 15th for the previous school year. (4-4-13)~~
- 086. Proof of Compliance.** Additional proof of compliance as reasonably requested by the Commission. (4-4-13)

**303. -- 399. (RESERVED)**

**400. PETITION -- PUBLIC HEARING.**

A public hearing, as required by Section 33-5205(2), Idaho Code, for consideration of a petition on its merits shall be

conducted by the Commission. ~~The Commission will:~~ (4-11-06)

- ~~01. Charter Provisions. Consider the provisions of the public school charter petition. (4-11-06)~~
- ~~02. Petition Merits. Consider the merits of the petition including, but not limited to, the presentation by authorized representatives for the petition. (4-11-06)~~
- ~~03. Petition Support. Consider the level of employee and parental support of the petition. (4-11-06)~~
- ~~04. School District Comment. Consider any oral or written comments of an authorized representative of the school district in which the proposed public charter school would be physically located. (4-11-06)~~
- ~~05. Public Comment. Citizens intending to testify must notify the Commission the day of the meeting. Public comment will be limited to ten (10) minutes, unless otherwise determined by the Commission chairman. (4-11-06)(6-20-13)T~~

**401. PETITION -- FORMAT.**

All petitions submitted to the Commission must be in the following format. Information will only be considered if it is located in the correct Section. (4-11-06)

- 01. Cover Page.** The cover page must include the following information: (4-11-06)
  - a.** Name of proposed charter school; (4-11-06)
  - b.** School year petitioning to open the school; (4-11-06)
  - c.** Name of the school district affected by the attendance area; (4-11-06)
  - i.** Where the public charter school building will be physically located; or (4-11-06)
  - ii.** If it is a virtual school and the physical location of the main office; and (4-11-06)
  - d.** Name, address, telephone number, and e-mail address of the petitioner’s authorized representative. (4-4-13)
- 02. Table of Contents.** The second page shall be the beginning of the table of contents. (4-11-06)
- 03. Tab 1.** Mission and vision statements. (4-4-13)
- 04. Tab 2.** The petitioner’s information regarding the proposed operation and potential effects of the public charter school including, but not limited to, the facilities to be utilized by the public charter school, the manner in which administrative services of the public charter school are to be provided, and the potential civil liability effects upon the public charter school and upon the authorized chartering entity. (4-4-13)
- 05. Tab 3.** (4-11-06)
  - a.** A description of what it means to be an “educated person” in the twenty-first century, and how learning best occurs. (4-4-13)
  - b.** A description of the public charter school’s educational program and goals, including how each of the educational thoroughness standards, as defined in Section 33-1612, Idaho Code, shall be fulfilled. (4-4-13)
  - c.** The manner by which special education services will be provided to students with disabilities who are eligible pursuant to the federal Individuals with Disabilities Education Act. (4-4-13)
  - d.** The plan for working with parents who have students who are dually enrolled pursuant to Section 33-203(7), Idaho Code. (4-4-13)

- 06. Tab 4.** (4-11-06)
- a.** The measurable student educational standards the public charter school will use. (4-4-13)
  - b.** The method by which student progress in meeting the identified student educational standards is to be measured. (4-4-13)
  - c.** A provision by which students of the public charter school will be tested with the same standardized tests as other Idaho public school students. (4-4-13)
  - d.** A provision that ensures that the public charter school shall be state accredited as provided by rule of the Board. (4-4-13)
  - e.** A provision describing the school's plan if it is ever identified as an in need of improvement school as outlined in the No Child Left Behind Act. (4-11-06)
- 07. Tab 5.** (4-11-06)
- a.** A description of the governance structure of the public charter school including, but not limited to, the persons or entity who shall be legally accountable for the operation of the public charter school. (4-4-13)
  - b.** A description of the ethical standards to which the governing board of the public charter school will adhere. (4-4-13)
  - c.** A plan for the initial and ongoing training of the governing board of the public charter school. (4-4-13)
  - d.** The process to be followed by the public charter school to ensure parental involvement. (4-4-13)
  - e.** The manner in which an annual audit of the financial and programmatic operations of the public charter school will be conducted. (4-4-13)
- 08. Tab 6.** (4-11-06)
- a.** The qualifications to be met by individuals employed by the public charter school. This should include a requirement for all staff members to submit to a criminal history check, as required by Section 33-130, Idaho Code, and that all instructional staff shall be certified teachers, as required by the Board. (4-4-13)
  - b.** The procedures that the public charter school will follow to ensure the health and safety of students and staff. (4-4-13)
  - c.** The procedures required by Section 33-210, Idaho Code, for students using or under the influence of alcohol or controlled substances. (4-4-13)
  - d.** The disciplinary procedures that the public charter school will utilize, including the procedure by which students, including special education students, may be suspended, expelled, and re-enrolled. (4-4-13)
  - e.** A provision which ensures that all staff members of the public charter school will be covered by the public employee retirement system, federal social security, unemployment insurance, worker's compensation insurance, and health insurance. (4-4-13)
  - f.** A description of the transfer rights of any employee choosing to work in a public charter school authorized by the Commission and the rights of such employees to return to any public school in the school district after employment at such public charter school. (4-4-13)
  - g.** A provision that ensures that the staff of the public charter school shall be considered a separate

- unit for purposes of collective bargaining. (4-4-13)
- h.** A statement that all teachers and administrators will be on written contract as required by Section 33-5206(4), Idaho Code. (4-11-06)
- 09. Tab 7.** (4-11-06)
- a.** Admission procedures, including provision for over enrollment. (4-4-13)
- b.** The public school attendance alternative for students residing within the school district who choose not to attend the public charter school. (4-4-13)
- c.** The process by which the citizens in the area of attendance shall be made aware of the enrollment opportunities of the public charter school. (4-4-13)
- d.** A plan for the requirements of Section 33-205, Idaho Code, for the denial of school attendance. (4-4-13)
- ~~**e.** *The student handbook that describes the school rules and the procedure ensuring a student's parent or guardian has access to this handbook.* (4-11-06)~~
- f.** A plan for the requirements of Section 33-205, Idaho Code, for the denial of school attendance. See Section 33-5205(3)(i), Idaho Code. (4-11-06)
- g.** The student handbook that describes the school rules and the procedure ensuring a student's parent or guardian has access to this handbook. (4-11-06)
- 10. Tab 8.** (4-11-06)
- a.** A detailed business plan including: (4-11-06)
- i. Business description, (4-11-06)
- ii. Marketing plan, (4-11-06)
- iii. Management plan, (4-11-06)
- iv. The school's financial plan, and (4-4-13)
- v. A pre-opening plan and timeline. (4-4-13)
- b.** A proposal for transportation services with an estimated first year cost as required by Section 33-5208(4), Idaho Code. (4-11-06)
- c.** Plans for a school lunch program, including how a determination of eligibility for free and reduced price meals will be made. (4-11-06)
- 11. Tab 9.** If this is a virtual public charter school, a brief description of how the school meets the definition of a public virtual school as defined by Section 33-5202A(9), Idaho Code. (4-11-06)
- 12. Tab 10.** (4-11-06)
- a.** A description of any business arrangements or partnerships with other schools, educational programs, businesses, or nonprofit organizations. (4-4-13)
- b.** Additional information the petitioners want the authorizing chartering entity to consider as part of the petition. (4-11-06)

- c.** A plan for termination of the charter by the board of the public charter school. (4-11-06)
- 13. Appendices.** (4-4-13)

  - a.** Copies of articles of incorporation, file-stamped by the Idaho Secretary of State's Office; and of the signed bylaws adopted by the board of directors of the nonprofit corporation; (4-4-13)
  - b.** Signatures of at least thirty (30) qualified electors of the proposed charter school's service area. Proof of qualification of electors must be attached. (4-4-13)
  - c.** Resumes of the directors of the nonprofit corporation, including references; (4-4-13)
  - d.** Copies of any contracts or lease agreements; (4-4-13)
  - e.** Start-up budget with assumptions form and supporting documentation; (4-4-13)
  - f.** Three-year operating budget form; and (4-4-13)
  - g.** First year month-by-month cash flow form. (4-4-13)
  - h.** The school's budget must be in the Idaho Financial Accounting Reporting Management System (IFARMS) format and any other such format as may be reasonably requested by the Commission. (4-4-13)

**IDAPA 11 - IDAHO STATE POLICE  
IDAHO STATE RACING COMMISSION**

**11.04.02 - RULES GOVERNING SIMULCASTING**

**DOCKET NO. 11-0402-1301**

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

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2013.

**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 54-2506 and 54-2512a, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2013.

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 new statute, section 54-2512A, Idaho Code, (HB220) authorized historical horse race wagering and was effective July 1, 2013. This statute charges the Racing Commission with enforcing and regulating all historical horse race wagering in Idaho. Rules need to be in effect in order to fulfill legislative directives.

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

1. Regulation of Pari-Mutuel Wagering is necessary to protect the public welfare.
2. Statutory amendment of section 54-2512A, Idaho Code, authorizing the use of Historical Racing Wagering, and charging the Racing Commission with promulgating rules.
3. Historical Racing Wagering confers benefits to the following groups: Idaho Track Distribution Account, Idaho Breed Distribution Account, Idaho Public Schools, and the Idaho Horse Council Youth Program.

**FEE SUMMARY:** No fees are imposed by this rule.

**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 impact on the state general fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because statutory changes went into effect before rules could be negotiated.

**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: No materials were incorporated by reference into this rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Frank Lamb, Racing Commission Executive Director, at 208-884-7080.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 28, 2013.

DATED this 12th day of July, 2013.

Frank Lamb  
Executive Director  
Idaho Racing Commission  
700 S Stratford Dr.  
Meridian, ID 83642  
Phone: 208-884-7082  
Fax: 208-884-7098

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**THE FOLLOWING IS THE TEMPORARY RULE AND THE TEXT OF THE PROPOSED RULE  
FOR DOCKET NO. 11-0402-1301**

**010. DEFINITIONS.**

**01. Association Which Accepts the Wager.** The guest association to which the bettor contributes his money to the pari-mutuel pool and receives a pari-mutuel ticket. (4-9-09)

**02. Authorized User.** A person authorized by the Racing Commission to receive, decode, and use for legal purposes the encrypted simulcast signal of pari-mutuel events. (4-9-09)

**03. Breakage.** The odd cents rounded down to the lowest multiple of ten cents (\$.10) in a positive pool and down to the lowest multiple of five cents (\$.05) in a minus pool. (4-9-09)

**04. Combined Pools.** The pari-mutuel wagers at one (1) or more guest associations being contributed into the pari-mutuel pools of a host association. (4-9-09)

**05. Decoder.** A device or means to convert encrypted audio-visual signals or data into a form recognizable as the original content of the signals. (4-9-09)

**06. Designated Area.** An age controlled area approved by the Commission where Historical Horse Race Terminals are located. (7-1-13)T

**067. Downlink.** A receiving antenna coupled with an audio-visual signal receiver that is compatible with and capable of receiving simultaneous audio-visual signals or data emanating from a host association. This includes the electronic transfer of received signals from the receiving antenna to TV monitors within the satellite facility. (4-9-09)

**078. Enclosure, Enclosure-Public.** Includes all enclosed areas of the simulcast wagering facility. (4-9-09)

**089. Encryption.** The scrambling or other manipulation of the audio-visual signals to mask the original content of the signal and so cause such signals to be indecipherable and unrecognizable to any person receiving such signal. (4-9-09)

**109. Foreign Jurisdiction.** A jurisdiction of a foreign country or political subdivision thereof. (4-9-09)

**101. Guest, Guest Association or Simulcast Operator.** A simulcast licensee authorized by the Racing Commission to offer, sell, cash, redeem or exchange pari-mutuel tickets on races being run at a host association. (4-9-09)

**142. Handle or Gross Handle.** Total amount of money wagered on a race less refunds and cancels. (4-9-09)

**13. Historical Horse Race.** A race involving live horses that was conducted in the past and that is rebroadcast by electronic means and shown on a delayed or replayed basis for the purposes of wagering and that is conducted at a facility that is authorized to show simulcast or televised races, or both, (also known as "instant racing"). (7-1-13)T

**124. Horse.** Includes filly, mare, colt, horse or gelding in general; when referring to sex, filly becomes a mare when five (5) years old; a horse is an intact male when five (5) years old or older. (4-9-09)

**135. Host or Host Association.** The racing association conducting a licensed horse racing meeting when it is authorized by the Racing Commission to simulcast its racing program. It may also be considered the sending track which means any track from which simulcast signals originate. (4-9-09)

**146. Hub.** A facility that acts as an intermediary between pari-mutuel wagering facilities for the transmission of wagering data and that is responsible for generating all reports necessary for the reconciliation of payments. (4-9-09)

**157. Interstate Simulcast Wagering.** (4-9-09)

**a.** Wagering conducted by a betting system outside the state of Idaho on the results of one (1) or more races being run at an Idaho host association; or (4-9-09)

**b.** Wagering conducted by a betting system within the state of Idaho on the results of one (1) or more races being run at a host association outside the state of Idaho. (4-9-09)

**168. Intrastate Simulcasting Wagering.** Pari-mutuel wagering at an Idaho guest association on Idaho horse racing events run at an Idaho host association. (4-9-09)

**179. Racing Association.** Any person licensed by the Racing Commission to conduct a race meet and pari-mutuel wagering. (4-9-09)

**1820. Racing Commission.** Three (3) member Idaho State Racing Commission created by Section 54-2503, Idaho Code, or its designee. (4-9-09)

**1921. Simulcast.** The telecast or other transmission of live audio and visual signals of a race, transmitted from a sending track to a receiving location, for the purpose of wagering conducted on the race at the receiving location. (4-9-09)

**202. Simulcast Facility.** The physical premises, structure and equipment utilized by a guest or host association for conducting pari-mutuel wagering on horse racing events and permitted pari-mutuel events. Such facility must be a part of the license granted to the guest or host association. (4-9-09)

**213. Simulcast Service Supplier.** (4-9-09)

**a.** A person engaged in providing service, supplies or equipment necessary to the operation of intrastate, interstate or out-of-state simulcast wagering for use by a host association, guest association, simulcast operator, or authorized user, including pari-mutuel wagering terminals, uplink, downlink, television receivers and related equipment. (4-9-09)

**b.** It does not include persons authorized by the Federal Communications Commission to provide telephone service or space segment time on satellite transponders. (4-9-09)

**224. Satellite Transponder, Transponder.** Leased space segment time of an earth-orbit communication satellite. (4-9-09)

**235. Take or Takeout.** Money deducted from mutuel pools that is shared by the track and local and state governing bodies in the form of a tax. (4-9-09)

**26. Terminal.** The device connected to the pari-mutuel system used to place wagers. (7-1-13)T

**247. Totalisator.** A computer that, directly or indirectly through one (1) or more other totalisators, receives pari-mutuel wagering information, calculates pay-offs for winning tickets and generates reports with respect to such information, and may refer to the linked computers of the hub and the track. (4-9-09)

**258. Uplink.** An earth station broadcasting facility, whether mobile or fixed, which is used to transmit audio-visual signals or data on Federal Communication Commission-controlled frequencies, and includes any electronic transfer of the audio-visual signals from within the racing enclosure to the location of the transmitter at the uplink. (4-9-09)

**(BREAK IN CONTINUITY OF SECTIONS)**

**029. NET POOL PRICING.**

**01. Takeout Rates.** If takeout rates are not the same for all jurisdictions and net pool pricing is utilized, the contract must specify net pool pricing. (4-9-09)

**a.** Individual wagering transactions are deemed to be made at the point of sale in the state where placed unless otherwise specified by statute or court ruling. (4-9-09)

**b.** Any surcharges or withholdings in addition to the takeout must only be applied in the jurisdiction otherwise imposing such surcharges or withholdings. (4-9-09)

**c.** In determining whether to approve an interstate common pool which does not include the host track or which includes races from more than one racing association, the Racing Commission will consider and may approve use of a bet type which is not utilized at the host association, application of a takeout rate not in effect at the live event track, or other factors which are presented to the Racing Commission. (4-9-09)

**d.** The content and format of the visual display of racing and wagering information at facilities in other jurisdictions where wagering is permitted in the interstate common pool need not be identical to the similar information permitted or required to be displayed under these rules. (4-9-09)

**02. Guest Participation in Interstate Common Pools.** (4-9-09)

**a.** The Racing Commission may approve a takeout from the pari-mutuel pools identical to that of other jurisdictions participating in a merged pool. (4-9-09)

**b.** Rules, ~~of racing~~ either Live or Historic, as established ~~for the race~~ in the host state will apply to the merged pool. (4-9-09)(7-1-13)T

**c.** The simulcast operator must designate which one of the following procedures it will use if it becomes impossible to successfully merge the corresponding pools into the interstate common pool, and must publish their designated procedure in the printed program: (4-9-09)

**i.** Compute payouts in accordance with payout prices that would have been in effect if prices for the pool of bets were calculated without regard to wagers placed elsewhere; or (4-9-09)

**ii.** With permission of the Racing Commission, pay winning tickets at the payout prices at the host track; or (4-9-09)

**iii.** Declare such accepted bets void and make refunds in accordance with the applicable rules. (4-9-09)

**(BREAK IN CONTINUITY OF SECTIONS)**

**047. PARI-MUTUEL SYSTEM OF WAGERING REQUIRED FOR HISTORICAL RACING.**

The only wagering permitted on a historical horse race shall be under the pari-mutuel system of wagering. All systems of wagering other than pari-mutuel shall be prohibited. Any person participating or attempting to participate in prohibited wagering shall be subject to prosecution. (7-1-13)T

**048. TOTALIZATOR OR OTHER APPROVED EQUIPMENT REQUIRED.**

Pari-mutuel wagering on live and historical horse races shall only be conducted through the use of a totalizator or other similar mechanical equipment approved by the Commission. (7-1-13)T

**049. HISTORICAL HORSE RACE LICENSING.**

**01. No Historical Horse Race Wagering Conducted Without a License.** Wagering on an historical horse race shall only be conducted by a licensee approved by the Commission. (7-1-13)T

**02. Historical Horse Race Horse Breed.** A licensee may conduct wagering on historical horse races of any horse breed regardless of the type of breed that primarily races in live meets, if any, conducted by the licensee. (7-1-13)T

**03. Approved Days and Hours.** A licensee may conduct wagering on historical races on any days and hours that is in conformity with local municipalities and approved by the Commission. (7-1-13)T

**04. Cash or Cash Vouchers Only.** Historical horse racing terminals shall use cash or cash vouchers only. (7-1-13)T

**050. REQUIRED ELEMENTS OF HISTORICAL HORSE RACE WAGERING.**

**01. Approved Terminal.** A patron may only wager on an historical horse race that is on a terminal approved by the Commission. (7-1-13)T

**02. Terminal Chooses Race.** Once a patron wagers an amount in the terminal offering wagering on an historical horse race, an historical horse race shall be chosen by the historical racing system. (7-1-13)T

**03. Historical Races Are Unidentified.** Prior to the patron making wager selections, the terminal shall not display any information that would allow the patron to identify the historical race on which the wager is being made. This includes:

- a. The location of the race; (7-1-13)T
- b. The date on which the race was run; (7-1-13)T
- c. The names of the horses in the race; or (7-1-13)T
- d. The names of the jockeys that rode the horses in the race. (7-1-13)T

**04. Past Performance Information.** True and accurate past performance information on the historical horse race shall be made available to the patron prior to making wager selections. The information shall be current as of the day the historical horse race was actually run. The information provided to the patron shall be displayed on the terminal in data or graphical form, or both. (7-1-13)T

**05. Identity of Race Revealed After Wager Completion.** After a patron finalizes the wager selections, the terminal shall display a video replay of the race, or a portion thereof, and the official results of the race. The identity of the race shall be revealed to the patron only after completion of the wager. (7-1-13)T

**051. LOCATION OF HISTORICAL HORSE RACE TERMINALS AND ACCESS CONTROL.**

**01. Terminals Located Only at Idaho Live Simulcast Facilities.** Terminals offering wagering on historical horse races may be located at facilities located in Idaho where Live Simulcasting is authorized and approved by the Commission and the County Commission where such facilities are located, pursuant to Sections 54-2512 (3)(4) and 54-2514A, Idaho Code. (7-1-13)T

**02. Terminals Located Only In Designated Areas.** Terminals offering wagering on historical horse races shall be located within designated areas that have the prior written approval of the Commission. Designated areas shall be established in such a way as to control access by the general public and prevent entry by any person who is under eighteen (18) years of age or is otherwise not permitted to place wagers. (7-1-13)T

**03. Minors Not Permitted In Designated Areas.** Each licensee shall monitor persons entering and leaving the designated areas and shall prevent access to any person who is under eighteen (18) years of age or is otherwise not permitted to place wagers on historical horse races. (7-1-13)T

**04. Notice To Minors Posted At Entrances.** Every licensee shall keep a sign conspicuously posted over or near each entrance to any place where persons under eighteen (18) years are prohibited entry and herein restricted, giving public notice of such fact. (7-1-13)T

**05. ADA Access.** Access to the designated area shall comply with the Americans with Disabilities Act (ADA). (7-1-13)T

**06. Contact Information In Designated Areas.** Contact information for a recognized problem-gambling organization shall be made available to all patrons and posted in the designated areas. (7-1-13)T

**052. -- 055. (RESERVED)**

**056. HISTORICAL HORSE RACE LICENSEE RECORD KEEPING.**

**01. Complete Records.** Each licensee authorized to offer Live Simulcasting and Historical Horse Racing shall maintain complete paper or electronic records of all pari-mutuel wagering transactions on live and historical horse races, including the amounts wagered at each betting window, self-service totalizator, mobile pari-mutuel teller, and terminals. (7-1-13)T

**02. Record Archive Period.** A copy of the wagering records shall be retained and safeguarded for a period of not less than two (2) years and shall not be destroyed without the prior written permission of the Commission. (7-1-13)T

**057. HISTORICAL HORSE RACE EQUIPMENT.**

**01. Equipment Approved By Commission.** All pari-mutuel equipment utilized in the offering and transmitting of historical racing shall be approved by the Commission prior to accepting a wager. (7-1-13)T

**02. Terminal Breakdown and Patron Refund.** If there is a complete breakdown of a terminal offering wagering on an historical horse race, the licensee offering the wager shall make a full refund of the patron's balance on the terminal at the time of the breakdown, as verified by the historical racing system. (7-1-13)T

**03. Proposed Designated Area Submitted To Commission.** A detailed description of the proposed designated area and the placement of terminals on which the pari-mutuel wagers will be made shall be submitted to the Commission. This description shall include a drawing to scale of the proposed designated area that describes the size, construction, layout, capacity, number of terminals, and location of surveillance and other security equipment, and at least one (1) photograph of the designated area when construction is completed. The licensee shall also submit to the Commission the following: (7-1-13)T

**a.** The manufacturer, make, and model of the terminal, including a copy of all literature supplied by the manufacturer of the terminal; (7-1-13)T

**b.** The maintenance and repair procedures that will ensure the integrity of the terminals; and (7-1-13)T

**c.** A complete list of individuals who are authorized to examine and repair the terminals for any reason. (7-1-13)T

**04.** Commission May Require Terminal Testing. The commission may require testing of each terminal used for wagering on historical horse races by an independent testing company to ensure its integrity and proper working order. The independent testing company shall be chosen by the Commission. (7-1-13)T

**05.** Information Required for Display on Each Pari-Mutuel Wagering Pool. Each terminal for wagering on an historical horse race shall display odds or pool amounts that the patron will receive (i.e. "will pays") for a winning wager on each pari-mutuel wagering pool. (7-1-13)T

**06.** No Changes Or Modifications by Licensee Allowed. A licensee shall not implement any changes or modification to the practices, procedures, locations, or representations upon which the approval of the historical horse racing wagers was based without the prior written approval of the Commission. (7-1-13)T

**04758. - 999. (RESERVED)**

**IDAPA 11- IDAHO STATE POLICE  
IDAHO STATE RACING COMMISSION**

**11.04.11 - RULES GOVERNING EQUINE VETERINARY PRACTICES, PERMITTED MEDICATIONS,  
BANNED SUBSTANCES AND DRUG TESTING OF HORSES**

**DOCKET NO. 11-0411-1301**

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

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2013.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-2506, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2013.

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

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

This rule will provide specific language to clarify whether horses with positive drug tests were ineligible to have raced. This rule will provide clarity and specify that when a horse is considered ineligible, the horse will be disqualified and purse money will be redistributed accordingly.

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

Providing this language of clarity will ensure the agency can take the standard enforcement action necessary to protect the bettor, the horses, and the integrity of the sport of horse racing.

**FEE SUMMARY:** No fees are imposed by this rule.

**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 impact on the state general fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the 2013 Live Racing Season commenced before the rule could be negotiated.

**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: No materials were incorporated by reference into this rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Frank Lamb, Racing Commission Executive Director, at 208-884-7080.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2013.

DATED this 12th day of July, 2013.

Frank Lamb  
Executive Director  
Idaho Racing Commission  
700 S Stratford Dr.  
Meridian, ID 83642  
Phone: 208-884-7082  
Fax: 208-884-7098

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**THE FOLLOWING IS THE TEMPORARY RULE AND THE TEXT OF THE PROPOSED RULE  
FOR DOCKET NO. 11-0411-1301**

**501. ILLEGAL PRACTICES BY TRAINER.**

**01. Disciplinary Sanctions.** A trainer who is found to have committed illegal practices under the statutes or rules, or both, that govern live horse racing in Idaho shall be subject to disciplinary sanctions, which may be levied by a fine up to two thousand five hundred dollars (\$2,500), license suspension or license revocation. (7-1-13)T

**02. Disqualification for Non-Permitted Substance.** If a horse tests positive for any substance (medication, drug, chemical, narcotic, anesthetic, or analgesic) not specifically permitted by these rules by either a pre- or post-race laboratory test, that horse shall be deemed ineligible to have raced in the race and shall be disqualified retroactively to the start of the affected race. If such disqualification occurs, the horse's owner(s) shall, within five (5) calendar days, return the entire amount of the purse or sweepstakes or trophy that was awarded in the affected race and the same shall be redistributed. If the affected race is a qualifying race for a subsequent race and if a horse shall be disqualified, the eligibility of other horses that ran in the affected race and that have started in the subsequent race before announcement of such disqualification shall not in any way be affected. (7-1-13)T

**~~501~~2. -- 599. (RESERVED)**

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.01.01 - EMERGENCY MEDICAL SERVICES (EMS) - ADVISORY COMMITTEE (EMSAC)

DOCKET NO. 16-0101-1301

#### 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 56-1011 through 56-1023, Idaho Code.

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

<b>Thursday, August 22, 2013 6:00 p.m. - 7:00 p.m.</b>	<b>Monday, August 26, 2013 3:30 p.m. - 4:30 p.m.</b>	<b>Wednesday, August 28, 2013 6:00 p.m. - 7:00 p.m.</b>
<b>Coeur d'Alene Public Library Community Room 702 E. Front Ave. Coeur d'Alene, ID 83814</b>	<b>EMS Bureau Conference Room 650 W. State St. B-25 Boise, ID 83702</b>	<b>Fire Station #2 Training Room 1539 N Hayes Pocatello, ID 83204</b>

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

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

Over the past several years, meetings have been held to negotiate and discuss the rewrite and update of the Emergency Medical Services (EMS) chapters of rules. The changes being made to this chapter are needed to align these rules with the new "EMS - Rule Definitions" chapter being implemented under Docket 16-0102-1301 in this Bulletin. This change updates definitions necessary to meet the ever-changing terminology and technology used to protect the health and safety of the public in emergency situations. There is a name change in the Department for the Bureau of Emergency Services and Preparedness that has also been included in this docket.

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

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

The Emergency Medical Services (EMS) program is funded through dedicated funds. This rulemaking has no fiscal impact to those funds or to the state general fund. This rulemaking is intended to be cost-neutral.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2013, [Vol. 13-4, page 13 and 14](#), and May 1, 2013, [Vol. 13-5, page 75 and 76](#), Idaho Administrative Bulletins, under Docket No. 16-0203-1301, for "Emergency Medical Services." In addition to the negotiated townhall meetings held around the state, a task force committee, comprised of EMS professionals and interested stakeholder groups, met to develop the rule concepts.

**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 proposed rule, contact Chris Stoker 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 August 28, 2013.

DATED this 9th day of July, 2013.

Tamara Prisock  
DHW - Administrative Rules Unit  
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](mailto:dhwrules@dhw.idaho.gov)

**THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 16-0101-1301**

**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. (3-29-12)

**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. (3-29-12)

**03. Street Address.** (3-29-12)

**a.** The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (3-29-12)

**b.** The EMS Bureau of Emergency Medical Services and Preparedness is located at 650 W. State Street, Suite B-17, Boise, Idaho 83702. (3-29-12)( )

**04. Telephone.** (3-29-12)

**a.** The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (3-29-12)

**b.** The telephone number for the EMS Bureau of Emergency Medical Services and Preparedness is (208) 334-4000. The toll-free, phone number is 1-877-554-3367. (3-29-12)( )

**05. Internet Websites.** (3-29-12)

**a.** The Department's internet website is found at <http://www.healthandwelfare.idaho.gov>. (3-29-12)

**b.** The Bureau of Emergency Medical Services Bureau's and Preparedness internet website is found at <http://www.idahoems.org>. (3-29-12)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. DEFINITIONS AND ABBREVIATIONS.**

For the purposes of this chapter, ~~of rules the following terms~~ the definitions in IDAPA 16.01.02, "Emergency Medical Services (EMS) -- Rule Definitions" apply. (3-29-12)( )

~~01- Emergency Medical Services Advisory Committee (EMSAC). The statewide advisory board of the EMS Bureau whose members are appointed by the Director of the Idaho Department of Health and Welfare to provide counsel to the Department on administering the EMS Act. (3-29-12)~~

~~02- Third Service. An EMS agency that is neither fire nor law enforcement based. (3-29-12)~~

# IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

## 16.01.02 - EMERGENCY MEDICAL SERVICES (EMS) - RULE DEFINITIONS

DOCKET NO. 16-0102-1301 (NEW CHAPTER)

### 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 56-1011 through 56-1023, Idaho Code.

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

Thursday, August 22, 2013 6:00 p.m. - 7:00 p.m.	Monday, August 26, 2013 3:30 p.m. - 4:30 p.m.	Wednesday, August 28, 2013 6:00 p.m. - 7:00 p.m.
Coeur d'Alene Public Library Community Room 702 E. Front Ave. Coeur d'Alene, ID 83814	EMS Bureau Conference Room 650 W. State St. B-25 Boise, ID 83702	Fire Station #2 Training Room 1539 N Hayes Pocatello, ID 83204

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

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

Over the past several years, meetings have been held to negotiate and discuss the rewrite and update of the Emergency Medical Services chapters of rules. This new chapter of rules is needed to align definitions for all EMS chapters of rule in order to meet the ever-changing terminology and technology used to protect the health and safety of the public in emergency situations. This new chapter will ensure that EMS chapters that are being implemented or updated will use the same definitions and keep other EMS chapters with current and consistent terminology to avoid confusion, and ensure compliance with licensing requirements.

This new chapter of rules provides the following:

1. Definitions for the EMS chapters of rules;
2. Authority, scope, and references to the EMS chapters to which these rules apply; and
3. Required sections to meet the requirements of the rules of the Office of the Administrative Rules Coordinator.

**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:

The Emergency Medical Services (EMS) program is funded through dedicated funds. This rulemaking has no fiscal impact to those funds or to the state general fund. This rulemaking is intended to be cost-neutral.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2013, [Vol. 13-4, page 13 and 14](#), and May 1, 2013, [Vol. 13-5, page 75 and 76](#), Idaho Administrative Bulletins, under Docket No. 16-0203-1301, for "Emergency Medical Services." In addition to the negotiated townhall meetings held around the state, a task force committee, comprised of EMS professionals and interested stakeholder groups, met to develop the rule concepts.

**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 proposed rule, contact Chris Stoker 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 August 28, 2013.

DATED this 1st day of July, 2013.

Tamara Prisock  
DHW - Administrative Rules Unit  
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](mailto:dhwrules@dhw.idaho.gov)

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**THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 16-0102-1301**

**IDAPA 16  
TITLE 01  
CHAPTER 02**

**16.01.02 - EMERGENCY MEDICAL SERVICES (EMS) - RULE DEFINITIONS**

**000. LEGAL AUTHORITY.**

The Idaho Board of Health and Welfare is authorized under Section 56-1023, Idaho Code, to adopt rules and standards concerning the administration of the Idaho Emergency Medical Services Act, Sections 56-1011 through 56-1023, Idaho Code. The Director is authorized under Section 56-1003, Idaho Code, to supervise and administer an emergency medical services program. ( )

**001. TITLE AND SCOPE.**

**01. Title.** The title of these rules is IDAPA 16.01.02, "Emergency Medical Services (EMS) - Rule Definitions." ( )

**02. Scope.** These rules contain the definitions used throughout the Emergency Medical Services chapters of rules adopted by the Department. Those chapters include: ( )

- a.** IDAPA 16.01.01, "Emergency Medical Services (EMS) - Advisory Committee (EMSAC)"; ( )
- b.** IDAPA 16.01.03, "Emergency Medical Services (EMS) - Agency Licensing Requirements"; ( )
- c.** IDAPA 16.01.07, "Emergency Medical Services (EMS) - Personnel Licensing Requirements"; ( )

d. IDAPA 16.01.12, "Emergency Medical Services (EMS) - Complaints, Investigations and Disciplinary Actions"; and ( )

e. IDAPA 16.02.03, "Emergency Medical Services." ( )

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Department may have written statements that pertain to the interpretation of this chapter. ( )

**003. ADMINISTRATIVE APPEALS.**

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

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference in this chapter of rules. ( )

**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. ( )

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

**03. Street Address.** ( )

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

b. The Bureau of Emergency Medical Services and Preparedness is located at 650 W. State Street, Suite B-17, Boise, Idaho 83702. ( )

**04. Telephone.** ( )

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

b. The telephone number for the Bureau of Emergency Medical Services and Preparedness is (208) 334-4000. The toll-free phone number is 1-877-554-3367. ( )

**05. Internet Websites.** ( )

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

b. The Bureau of Emergency Medical Services and Preparedness internet website is found at <http://www.idahoems.org>. ( )

**006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS ACT COMPLIANCE AND REQUESTS.**

**01. Confidentiality of Records.** Any disclosure of confidential information used or disclosed in the course of the Department's business is subject to the restrictions in state or federal law, federal regulation, and IDAPA 16.05.01, "Use and Disclosure of Department Records." ( )

**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. ( )

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

**010. DEFINITIONS AND ABBREVIATIONS A THROUGH B.**

For the purposes of the Emergency Medical Services (EMS) chapters of rules, the following definitions apply:( )

- 01. Advanced Emergency Medical Technician (AEMT).** An AEMT is a person who: ( )
- a.** Has met the qualifications for licensure under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.07, "Emergency Medical Services (EMS) - Personnel Licensing Requirements"; ( )
  - b.** Is licensed by the Department under Sections 56-1011 through 56-1023, Idaho Code; ( )
  - c.** Carries out the practice of emergency medical care within the scope of practice for AEMT determined by the Idaho Emergency Medical Services Physician Commission (EMSPC), under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission"; and ( )
  - d.** Practices under the supervision of a physician licensed in Idaho. ( )
- 02. Advanced Life Support (ALS).** The provision of medical care, medication administration and treatment with medical devices that correspond to the knowledge and skill objectives in the Paramedic curriculum currently approved by the State Health Officer and within the scope of practice defined in IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission," by persons licensed as Paramedics by the Department. ( )
- 03. Advanced Practice Professional Nurse.** A person who meets all the applicable requirements and is licensed to practice as an Advanced Practice Professional Nurse under Sections 54-1401 through 54-1418, Idaho Code. ( )
- 04. Advertise.** Communication of information to the public, institutions, or to any person concerned, by any oral, written, graphic means including handbills, newspapers, television, radio, telephone directories, billboards, or electronic communication methods. ( )
- 05. Affiliation.** The formal association that exists between an agency and those licensed personnel who appear on the agency's roster, which includes active participation, collaboration, and involvement. Affiliation can be demonstrated by the credentialing of licensed personnel by the agency medical director. ( )
- 06. Affiliating EMS Agency.** The licensed EMS agency, or agencies, under which licensed personnel are authorized to provide patient care. ( )
- 07. Air Ambulance.** Any privately or publicly owned fixed wing aircraft or rotary wing aircraft used for, or intended to be used for, the transportation of persons experiencing physiological or psychological illness or injury who may need medical attention during transport. This may include dual or multipurpose vehicles which otherwise comply with Sections 56-1011 through 56-1023, Idaho Code, and specifications established in IDAPA 16.01.03, "Emergency Medical Services (EMS) - Agency Licensing Requirements." ( )
- 08. Air Medical Agency.** An agency licensed by the Department that responds to requests for patient care and transportation from hospitals and EMS agencies using a fixed wing aircraft or rotary wing aircraft. ( )
- 09. Air Medical I.** A service type available to a licensed air medical EMS agency that meets the requirements in IDAPA 16.01.03, "Emergency Medical Services (EMS) - Agency Licensing Requirements." ( )
- 10. Air Medical II.** A service type available to a licensed air medical EMS agency that meets the requirements in IDAPA 16.01.03, "Emergency Medical Services (EMS) - Agency Licensing Requirements." ( )
- 11. Air Medical Response.** The deployment of an aircraft licensed as an air ambulance to an

emergency scene intended for the purpose of patient treatment and transportation. ( )

**12. Ambulance.** Any privately or publicly owned motor vehicle, or nautical vessel, used for, or intended to be used for, the transportation of sick or injured persons who may need medical attention during transport. This may include dual or multipurpose vehicles which otherwise comply with Sections 56-1011 through 56-1023, Idaho Code, and specifications established in IDAPA 16.01.03, "Emergency Medical Services (EMS) - Agency Licensing Requirements." ( )

**13. Ambulance-Based Clinicians.** Licensed Professional Nurses and Advanced Practice Professional Nurses who are currently licensed under Sections 54-1401 through 54-1418, Idaho Code, and Physician Assistants who are currently licensed under Sections 54-1801 through 54-1841, Idaho Code. ( )

**14. Ambulance Agency.** An agency licensed by the Department under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.03, "Emergency Medical Services (EMS) - Agency Licensing Requirements," operated with the intent to provide personnel and equipment for medical treatment at an emergency scene, during transportation or during transfer of persons experiencing physiological or psychological illness or injury who may need medical attention during transport. ( )

**15. Applicant.** Any organization that is requesting an agency license under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.03, "Emergency Medical Services (EMS) - Agency Licensing Requirements," including the following: ( )

- a. An organization seeking a new license; ( )
- b. An existing agency that intends to:
  - i. Change the level of licensed personnel it utilizes; ( )
  - ii. Change its geographic coverage area (except by agency annexation); or ( )
  - iii. Begin or discontinue providing patient transport services. ( )

**16. Assessment.** The evaluation of a patient by EMS licensed personnel intending to provide treatment or transportation to that patient. ( )

**17. Basic Life Support (BLS).** The provision of medical care, medication administration, and treatment with medical devices which correspond to the knowledge and skill objectives in the EMR or EMT curriculum currently approved by the State Health Officer and within scope of practice defined in IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission," by persons licensed as EMRs or EMTs by the Department. ( )

**18. Board.** The Idaho Board of Health and Welfare. ( )

**011. DEFINITIONS AND ABBREVIATIONS C THROUGH E.**  
For the purposes of the Emergency Medical Services (EMS) chapters of rules, the following definitions apply:( )

**01. Call Volume.** The number of requests for service that an agency either anticipated or responded to during a designated period of time. ( )

**02. Candidate.** Any individual who is requesting an EMS personnel license under Sections 56-1011 through 56-1023, Idaho Code, IDAPA 16.01.07, "Emergency Medical Services (EMS) - Personnel Licensing Requirements." ( )

**03. Certificate of Eligibility.** Documentation that an individual is eligible for affiliation with an EMS agency, having satisfied all requirements for an EMS Personnel Licensure except for affiliation, but is not licensed to practice. ( )

- 04. Certification.** A credential issued to an individual by the Department for a specified period of time indicating that minimum standards have been met. ( )
- 05. Certified EMS Instructor.** An individual approved by the Department, who has met the requirements in IDAPA 16.02.03, "Emergency Medical Services," to provide EMS education and training. ( )
- 06. Compensated Volunteer.** An individual who performs a service without promise, expectation, or receipt of compensation other than payment of expenses, reasonable benefits or a nominal fee to perform such services. This individual cannot be a part-time or full-time employee of the same organization performing the same services as a volunteer and employee. ( )
- 07. Credentialing.** The local process by which licensed EMS personnel are authorized to provide medical care in the out-of-hospital, hospital, and medical clinic setting, including the determination of a local scope of practice. ( )
- 08. Credentialed EMS Personnel.** Individuals who are authorized to provide medical care by the EMS medical director, hospital supervising physician, or medical clinic supervising physician. ( )
- 09. Critical Care.** The treatment of a patient with continuous care, monitoring, medication, or procedures requiring knowledge or skills not contained within the Paramedic curriculum approved by the State Health Officer. Interventions provided by Paramedics are governed by the scope of practice defined in IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." ( )
- 10. Critical Care Agency.** An ambulance or air medical EMS agency that advertises and provides all of the skills and interventions defined as critical care in IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." ( )
- 11. Department.** The Idaho Department of Health and Welfare. ( )
- 12. Director.** The Director of the Idaho Department of Health and Welfare or his designee. ( )
- 13. Division.** The Division of Public Health, Idaho Department of Health and Welfare. ( )
- 14. Emergency.** A medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the person's health in serious jeopardy, or in causing serious impairments of bodily function or serious dysfunction of any bodily organ or part. ( )
- 15. Emergency Medical Care.** The care provided to a person suffering from a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the person's health in serious jeopardy, or in causing serious impairments of bodily function or serious dysfunction of any bodily organ or part. ( )
- 16. Emergency Medical Responder (EMR).** An EMR is a person who: ( )
- a.** Has met the qualifications for licensure in Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.07, "Emergency Medical Services - Personnel Licensing Requirements"; ( )
  - b.** Is licensed by the Department under Sections 56-1011 through 56-1023, Idaho Code; ( )
  - c.** Carries out the practice of emergency medical care within the scope of practice for EMR determined by the Idaho Emergency Medical Services Physician Commission (EMSPC), under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission"; and ( )
  - d.** Practices under the supervision of a physician licensed in Idaho. ( )

**17. Emergency Medical Services (EMS).** The system utilized in responding to a perceived individual need for immediate care in order to prevent loss of life, aggravation of physiological or psychological illness, or injury. ( )

**18. Emergency Medical Services Advisory Committee (EMSAC).** The statewide advisory board of the Department as described in IDAPA 16.01.01, "Emergency Medical Services (EMS) - Advisory Committee (EMSAC)." EMSAC members are appointed by the Director of the Idaho Department of Health and Welfare to provide counsel to the Department on administering the EMS Act. ( )

**19. EMS Agency.** Any organization licensed by the Department under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.03, "Emergency Medical Services (EMS) - Agency Licensing Requirements," that operates an air medical service, ambulance service, or non-transport service. ( )

**20. EMS Bureau.** The Bureau of Emergency Medical Services (EMS) & Preparedness of the Idaho Department of Health and Welfare. ( )

**21. EMS Medical Director.** A physician who supervises the medical activities of licensed personnel affiliated with an EMS agency. ( )

**22. EMS Physician Commission (EMSPC).** The Idaho Emergency Medical Services Physician Commission created under Section 56-1013A, Idaho Code, also referred to as "the Commission." ( )

**23. Emergency Medical Technician (EMT).** An EMT is a person who: ( )

**a.** Has met the qualifications for licensure in Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.07, "Emergency Medical Services - Personnel Licensing Requirements"; ( )

**b.** Is licensed by the EMS Bureau under Sections 56-1011 through 56-1023, Idaho Code; ( )

**c.** Carries out the practice of emergency medical care within the scope of practice for EMT determined by the Idaho Emergency Medical Services Physician Commission (EMSPC), under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission"; and ( )

**d.** Practices under the supervision of a physician licensed in Idaho. ( )

**24. Emergency Scene.** Any setting outside of a hospital, with the exception of the inter-facility transfer, in which the provision of EMS may take place. ( )

**012. DEFINITIONS AND ABBREVIATIONS F THROUGH N.**

For the purposes of the Emergency Medical Services (EMS) chapters of rules, the following definitions apply:( )

**01. Full-Time Paid Personnel.** Personnel who perform a service with the promise, expectation, or receipt of compensation for performing such services. Full-time personnel differ from part-time personnel in that full-time personnel work a more regular schedule and typically work more than thirty-five (35) hours per week. ( )

**02. Glasgow Coma Score (GCS).** A scale used to determine a patient's level of consciousness. It is a rating from three (3) to fifteen (15) of the patient's ability to open his eyes, respond verbally, and move normally. The GCS is used primarily during the examination of patients with trauma or stroke. ( )

**03. Ground Transport Time.** The total elapsed time calculated from departure of the ambulance from the scene to arrival of the ambulance at the patient destination. ( )

**04. Hospital.** A facility in Idaho licensed under Sections 39-1301 through 39-1314, Idaho Code, and defined in Section 39-1301(a)(1), Idaho Code. ( )

**05. Intermediate Life Support (ILS).** The provision of medical care, medication administration, and

treatment with medical devices which correspond to the knowledge and skill objectives in the AEMT curriculum currently approved by the State Health Officer and within the scope of practice defined in IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission," by persons licensed as AEMTs by the Department. ( )

**06. Investigation.** Research of the facts concerning a complaint or issue of non-compliance which may include performing or obtaining interviews, inspections, document review, detailed subject history, phone calls, witness statements, other evidence, and collaboration with other jurisdictions of authority. ( )

**07. License.** A document issued by the Department to an agency or individual authorizing specified activities and conditions as described under Sections 56-1011 through 56-1023, Idaho Code. ( )

**08. Licensed Personnel.** Those individuals who are licensed by the Department as Emergency Medical Responders (EMR), Emergency Medical Technicians (EMT), Advanced Emergency Medical Technicians (AEMT), and Paramedics. ( )

**09. Licensed Professional Nurse.** A person who meets all the applicable requirements and is licensed to practice as a Licensed Professional Nurse under Sections 54-1401 through 54-1418, Idaho Code. ( )

**10. Local Incident Management System.** The local system of interagency communications, command, and control established to manage emergencies or demonstrate compliance with the National Incident Management System. ( )

**11. Medical Supervision Plan.** The written document describing the provisions for medical supervision of licensed EMS personnel. ( )

**12. National Registry of Emergency Medical Technicians (NREMT).** An independent, non-governmental, not for profit organization which prepares validated examinations for the state's use in evaluating candidates for licensure. ( )

**13. Non-transport Agency.** An agency licensed by the Department, operated with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended to be the service that will actually transport sick or injured persons. ( )

**14. Non-transport Vehicle.** Any vehicle operated by an agency with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended as the vehicle that will actually transport sick or injured persons. ( )

**15. Nurse Practitioner.** An Advanced Practice Professional Nurse, licensed in the category of Nurse Practitioner, as defined in IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." ( )

**013. DEFINITIONS AND ABBREVIATIONS O THROUGH Z.**  
For the purposes of the Emergency Medical Services (EMS) chapters of rules, the following definitions apply:( )

**01. Out-of-Hospital.** Any setting outside of a hospital, including inter-facility transfers, in which the provision of EMS may take place. ( )

**02. Paramedic.** A paramedic is a person who: ( )

**a.** Has met the qualifications for licensure in Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.07, "Emergency Medical Services - Personnel Licensing Requirements"; ( )

**b.** Is licensed by the EMS Bureau under Sections 56-1011 through 56-1023, Idaho Code; ( )

**c.** Carries out the practice of emergency medical care within the scope of practice for paramedic determined by the Idaho Emergency Medical Services Physician Commission (EMSPC), under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission"; and ( )

- d. Practices under the supervision of a physician licensed in Idaho. ( )
- 03. Part-Time Paid Personnel.** Personnel who perform a service with the promise, expectation, or receipt of compensation for performing such services. Part-time personnel differ from the full-time personnel in that the part-time personnel typically work an irregular schedule and work less than thirty-five (35) hours per week. ( )
- 04. Patient.** A sick, injured, incapacitated, or helpless person who is under medical care or treatment. ( )
- 05. Patient Assessment.** The evaluation of a patient by EMS licensed personnel intending to provide treatment or transportation to that patient. ( )
- 06. Patient Care.** The performance of acts or procedures under emergency conditions in responding to a perceived individual need for immediate care in order to prevent loss of life, aggravation of physiological or psychological illness, or injury. ( )
- 07. Patient Movement.** The relatively short distance transportation of a patient from an off-highway emergency scene to a rendezvous with an ambulance or air ambulance. ( )
- 08. Patient Transport.** The transportation of a patient by ambulance or air ambulance from a rendezvous or emergency scene to a medical care facility. ( )
- 09. Physician.** A person who holds a current active license in accordance with Section 54-1803, Idaho Code, issued by the State Board of Medicine to practice medicine and surgery, osteopathic medicine and surgery, or osteopathic medicine in Idaho and is in good standing with no restrictions upon, or actions taken against, his license. ( )
- 10. Physician Assistant.** A person who meets all the applicable requirements and is licensed to practice as a licensed physician assistant under Title 54, Chapter 18, Idaho Code. ( )
- 11. Planned Deployment.** The deliberate, planned placement of EMS personnel outside of an affiliating agency's deployment model declared on the application under which the agency is currently licensed. ( )
- 12. Prehospital.** Any setting outside of a hospital, with the exception of transfers, in which the provision of EMS may take place. ( )
- 13. Response Time.** The total time elapsed from when the agency receives a call for service to when the agency arrives and is available at the scene. ( )
- 14. Skills Proficiency.** The process overseen by an EMS agency medical director to verify competency in psychomotor skills. ( )
- 15. State Health Officer.** The Administrator of the Division of Public Health. ( )
- 16. Supervision.** The medical direction by a licensed physician of activities provided by licensed personnel affiliated with a licensed ambulance, air medical, or non-transport service, including: ( )
- a. Establishing standing orders and protocols; ( )
  - b. Reviewing performance of licensed personnel; ( )
  - c. Providing instructions for patient care via radio or telephone; and ( )
  - d. Other oversight. ( )

17. **Third Service.** A public EMS agency that is neither law-enforcement nor fire-department based. ( )
18. **Transfer.** The transportation of a patient from one (1) medical care facility to another. ( )
19. **Uncompensated Volunteer.** An individual who performs a service without promise, expectation, or receipt of any compensation for the services rendered. An uncompensated volunteer cannot be a part-time or full-time employee of the same organization performing the same services as a volunteer and employee. ( )
014. -- 999. (RESERVED)

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.01.03 - EMERGENCY MEDICAL SERVICES (EMS) -- AGENCY LICENSING REQUIREMENTS

DOCKET NO. 16-0103-1301 (NEW CHAPTER)

#### 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 56-1011 through 56-1023, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be held as follows:

Thursday, August 22, 2013 6:00 p.m. - 7:00 p.m.	Monday, August 26, 2013 3:30 p.m. - 4:30 p.m.	Wednesday, August 28, 2013 6:00 p.m. - 7:00 p.m.
Coeur d'Alene Public Library Community Room 702 E. Front Ave. Coeur d'Alene, ID 83814	EMS Bureau Conference Room 650 W. State St. B-25 Boise, ID 83702	Fire Station #2 Training Room 1539 N Hayes Pocatello, ID 83204

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

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

Over the past several years, meetings have been held to negotiate and discuss the rewrite and update of the Emergency Medical Services chapters of rules. This new chapter of rules is needed to ensure that EMS agencies meet minimum licensing, staffing, and equipment requirements. This chapter reflects current technology and deployment models being used by EMS agencies in Idaho and will ensure compliance with rules that protect the health and safety of the public in emergency situations.

This new chapter of rules provides the following:

1. Types of agency licensing models, licensing requirements, and air medical utilization requirements;
2. Personnel and equipment requirements for agency licensure;
3. Application processes and requirements for initial agency licensure and license renewal;
4. References to licensure requirements in other chapters, such as personnel, investigations, disciplinary actions; and
5. Required sections to meet the requirements of the rules of the Office of the Administrative Rules Coordinator.

**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:

The Emergency Medical Services (EMS) program is funded through dedicated funds. This rulemaking has no fiscal impact to those funds or to the state general fund. This rulemaking is intended to be cost-neutral.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2013, [Vol. 13-4, page 13 and 14](#), and May 1, 2013, [Vol. 13-5, page 75 and 76](#), Idaho Administrative Bulletins, under Docket No. 16-0203-1301, for "Emergency Medical Services." In addition to the negotiated townhall meetings held around the state, a task force committee, comprised of EMS professionals and interested stakeholder groups, met to develop the rule concepts.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the “Minimum Equipment Standards for Licensed EMS Services”, edition 2014, version 1.0, is being incorporated by reference into these rules to give it the force and effect of law. The document is 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, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Chris Stoker 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 August 28, 2013.

DATED this 9th day of July, 2013.

Tamara Prisock  
DHW - Administrative Rules Unit  
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](mailto:dhwrules@dhw.idaho.gov)

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**THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 16-0103-1301**

**IDAPA 16  
TITLE 01  
CHAPTER 03**

**16.01.03 - EMERGENCY MEDICAL SERVICES (EMS) - AGENCY LICENSING REQUIREMENTS**

**000. LEGAL AUTHORITY.**

The Idaho Board of Health and Welfare is authorized under Section 56-1023, Idaho Code, to adopt rules and standards concerning the administration of the Idaho Emergency Medical Services Act, Sections 56-1011 through 56-1023, Idaho Code. The Director is authorized under Section 56-1003, Idaho Code, to supervise and administer an emergency medical service program. ( )

**001. TITLE AND SCOPE.**

**01. Title.** The title of these rules is IDAPA 16.01.03, “Emergency Medical Services (EMS) - Agency Licensing Requirements.” ( )

**02. Scope.** These rules include the categories of EMS agencies, eligibility requirements and standards for the licensing of EMS agencies, utilization of air medical services, and the initial application and renewal process for EMS agencies licensed by the state. ( )

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Department may have written statements that pertain to the interpretation of this chapter, or to the documentation of compliance with these rules. ( )

**003. ADMINISTRATIVE APPEALS.**

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

**004. INCORPORATION BY REFERENCE.**

The Board of Health and Welfare has adopted the "Minimum Equipment Standards for Licensed EMS Services," edition 2014, version 01, as its standard for minimum equipment requirements for licensed EMS Agencies and incorporates it by reference. Copies of these standards may be obtained from the Department, as described in Section 005 of these rules, or online at: <http://www.idahoems.org>. ( )

**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. ( )

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

**03. Street Address.** ( )

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

**b.** The Bureau of Emergency Medical Services and Preparedness is located at 650 W. State Street, Suite B-17, Boise, Idaho 83702. ( )

**04. Telephone.** ( )

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

**b.** The telephone number for the Bureau of Emergency Medical Services and Preparedness is (208) 334-4000. The toll-free phone number is 1-877-554-3367. ( )

**05. Internet Websites.** ( )

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

**b.** The Bureau of Emergency Medical Services and Preparedness internet website is found at <http://www.idahoems.org>. ( )

**006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS ACT COMPLIANCE AND REQUESTS.**

**01. Confidentiality of Records.** Any disclosure of confidential information used or disclosed in the course of the Department's business is subject to the restrictions in state or federal law and must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." ( )

**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. ( )

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

**010. DEFINITIONS.**

For the purposes of this chapter, the definitions in IDAPA 16.01.02, "Emergency Medical Services (EMS) - Rule Definitions," apply. ( )

**011. -- 074. (RESERVED)**

**075. INVESTIGATION OF COMPLAINTS FOR EMS LICENSING VIOLATIONS.**

Investigation of complaints and disciplinary actions for EMS agency licensing are provided under IDAPA 16.01.12, "Emergency Medical Services (EMS) - Complaints, Investigations, and Disciplinary Actions." ( )

**076. ADMINISTRATIVE LICENSE OR CERTIFICATION ACTION.**

Any license or certification may be suspended, revoked, denied, or retained with conditions for noncompliance with any standard or rule. Administrative license or certification actions, including fines, imposed by the EMS Bureau for any action, conduct, or failure to act that is inconsistent with the professionalism, or standards, or both, are provided under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.12, "Emergency Medical Services (EMS) - Complaints, Investigations, and Disciplinary Actions." ( )

**077. -- 099. (RESERVED)**

**EMS AGENCY GENERAL LICENSURE REQUIREMENT  
(SECTIONS 100-199)**

**100. AGENCY LICENSE REQUIRED.**

Any organization that advertises or provides ambulance, air medical, or non-transport emergency medical services in Idaho must be licensed as an EMS agency under the requirements in Sections 56-1011 through 56-1023, Idaho Code, and this chapter of rules. ( )

**101. EXEMPTION OF EMS AGENCY LICENSURE.**

An organization, licensed without restriction to provide emergency medical services in another state and not restricted from operating in Idaho by the Department, may provide emergency medical services in Idaho within the limits of its license without an Idaho EMS license only when the organization meets one (1) of the following: ( )

**01. Interstate Compact with Idaho.** The organization holds an EMS license in another state where an interstate compact specific to EMS agency licensure with Idaho is in effect. ( )

**02. Emergency, Natural, or Man-made Disaster.** The organization is responding to an emergency, or a natural or man-made disaster, declared by federal, state, or local officials and the services of the organization are requested by an entity of local or state government in Idaho. ( )

**03. Transfer of Patient From Out-of-State Medical Facility.** The organization is: ( )

**a.** Transferring a patient from an out-of-state medical facility to a medical facility in Idaho. The organization may return the patient to the point of origin; or ( )

**b.** Transferring a patient from an out-of-state medical facility through the state of Idaho. ( )

**04. Transport of Patient From Out-of-State Emergency Scene.** The organization is: ( )

**a.** Transporting a patient from an out-of-state emergency scene to a medical facility in Idaho; or ( )

**b.** Transporting a patient to a rendezvous with another ambulance. ( )

**102. SERVICES PROVIDED BY A LICENSED EMS AGENCY.**

An EMS agency can provide only those services that are within the agency's service type, clinical level, and operational declarations stated on the most recent license issued by the Department, except when the agency has a

planned deployment agreement described in Section 603 of these rules. ( )

**103. ELIGIBILITY FOR EMS AGENCY LICENSURE.**

An entity is eligible for EMS agency licensure upon demonstrated compliance with the requirements in Idaho statutes and administrative rules in effect at the time the Department receives the application. ( )

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

**EMS AGENCY LICENSURE MODEL  
(SECTIONS 200-299)**

**200. EMS AGENCY-- LICENSING MODEL.**

**01. Licensing an EMS Agency.** An eligible EMS agency in Idaho is licensed using a descriptive model that bases the agency licensure on the declarations made in the most recent approved initial or renewal application. An EMS agency must provide only those EMS services described in the most recent application on which the agency was issued a license by the Department. ( )

**02. EMS Agency License Models.** An EMS agency license is based on the agency's service types, clinical levels, license duration, and operational declarations. Geographic coverage areas and resources may differ between the service types, clinical levels, and operational declarations under which an agency is licensed. ( )

**03. EMS Agency Providing Both Air Medical and Ground-Based EMS Services.** An EMS agency that provides both air medical and ground-based EMS services must be licensed accordingly and meet all the requirements of an air medical and either an ambulance or non-transport agency, depending on the ground EMS services provided. ( )

**04. Multiple Organization EMS Agency.** An EMS agency may be comprised of multiple organizations licensed under a single responsible authority to which the governing officials of each organization agree. The authority must establish a deployment strategy that declares in which areas and at what times within their geographical response area will be covered by each declared service type, clinical level, and operational declaration. ( )

**201. EMS AGENCY -- SERVICE TYPES.**

An EMS agency may be licensed as one (1) or more service types. An agency that provides multiple service types must meet the minimum requirements for each service type provided. The following are the agency services types available for EMS agency licensure. ( )

**01. Ground Agency Service Types.** ( )

**a.** Non-transport. ( )

**b.** Ambulance. ( )

**02. Air Medical Agency Service Types.** ( )

**a.** Air Medical I. ( )

**b.** Air Medical II. ( )

**202. EMS AGENCY -- CLINICAL LEVELS.**

An EMS agency is licensed at one (1) or more of the following clinical levels depending on the agency's highest level of licensed personnel and life support services advertised or offered. ( )

**01. Non-transport.** ( )

- a. EMR/BLS; ( )
- b. EMT/BLS; ( )
- c. AEMT/ILS; or ( )
- d. Paramedic/ALS. ( )
- 02. Ambulance.** ( )
  - a. EMT/BLS; ( )
  - b. AEMT/ILS; ( )
  - c. Paramedic/ALS; or ( )
  - d. Paramedic/ALS Critical Care. ( )
- 03. Air Medical I.** ( )
  - a. Paramedic/ALS; or ( )
  - b. Paramedic/ALS Critical Care. ( )
- 04. Air Medical II.** ( )
  - a. EMT/BLS; or ( )
  - b. AEMT/ILS. ( )

**203. EMS AGENCY -- LICENSE DURATION.**

Each EMS agency must identify the license duration for each license type. License durations are: ( )

**01. Ongoing.** The agency is licensed to provide EMS personnel and equipment for an ongoing period of time and plans to renew its license on an annual basis. ( )

**02. Limited.** The agency is licensed to provide EMS personnel and equipment for the duration of a specific event or a specified period of time with no expectation of renewing the agency license. ( )

**204. GROUND EMS AGENCY -- OPERATIONAL DECLARATIONS.**

An agency providing ground services is licensed with one (1) or more of the following operational declarations depending on the services that the agency advertises or offers. ( )

**01. Prehospital.** The prehospital operational declaration is available to an agency with primary responsibility for responding to calls for EMS within their designated geographic coverage area. ( )

**02. Prehospital Support.** The prehospital support operational declaration is available to an agency that provides support under agreement to a prehospital agency having primary responsibility for responding to calls for EMS within a designated geographic coverage area. ( )

**03. Community Health EMS.** The community health EMS operational declaration is available to an agency with a prehospital operational declaration that provides personnel and equipment for medical assessment and treatment at a non-emergency scene or at the direction of a physician or independent practitioner. ( )

**04. Transfer.** The transfer operational declaration is available to an ambulance agency that provides EMS personnel and equipment for the transportation of patients from one (1) medical care facility in their designated geographic coverage area to another. An agency with this operational declaration must declare which sending

facilities it routinely responds to if requested. ( )

**05. Standby.** The standby operational declaration is available to an agency that provides EMS personnel and equipment to be staged at prearranged events within their designated geographic coverage area. ( )

**06. Non-Public.** The non-public operational declaration is available to an agency that provides EMS personnel and equipment intended to treat patients who are employed or contracted by the license holder. An agency with a non-public operational declaration is not intended to treat members of the general public. A non-public agency must maintain written plans for patient treatment and transportation. ( )

**07. Rescue.** The rescue operational declaration is available to an agency that provides EMS personnel and equipment to locate endangered persons at an emergency incident, treat the injured, and remove those persons from danger. ( )

**08. Extrication.** The extrication operational declaration is available to an agency that provides EMS personnel and equipment intended to remove and support trapped persons from a vehicle or machinery. ( )

**205. AIR MEDICAL AGENCY -- OPERATIONAL DECLARATIONS.**

An agency providing air medical services is licensed with one (1) or both of the following operational declarations depending on the services that the agency advertises or offers. Service levels, geographic coverage areas, and resources may differ between the operational declarations under which an agency is licensed. ( )

**01. Air Medical Transport.** The air medical transport operational declaration is available to an air medical agency that provides transportation of patients by air ambulance from a rendezvous or emergency scene to a medical care facility within its designated geographic coverage area. ( )

**02. Air Medical Transfer.** The air medical transfer operational declaration is available to an Air Medical I agency that provides transportation of patients by air ambulance from one (1) medical care facility in its designated geographic coverage area to another. An agency with this operational declaration must declare which sending facilities it routinely responds to if requested. ( )

**206. -- 209. (RESERVED)**

**210. AMBULANCE EMS AGENCY -- PATIENT TRANSPORT OR TRANSFER.**

An agency that is licensed as an ambulance service is intended for patient transport or transfer. ( )

**01. Transport.** An ambulance agency may provide transportation of patients from a rendezvous or emergency scene to a rendezvous or medical care facility when that agency is licensed with one (1) of the following operational declarations: ( )

- a. Prehospital; ( )
- b. Prehospital Support; ( )
- c. Standby; ( )
- d. Rescue; or ( )
- e. Extrication. ( )

**02. Transfer.** An ambulance agency that provides the operational declaration of transfer can provide transportation of patients from one (1) medical care facility within their designated geographic coverage area to another. ( )

**211. AIR MEDICAL EMS AGENCY -- PATIENT TRANSPORT OR TRANSFER.**

An agency that is licensed with an air medical service type is intended for patient transport or transfer. ( )

**01. Transport.** An air medical agency that provides the operational declaration of air medical transport may provide transportation of patients from a rendezvous or emergency scene to a medical care facility. ( )

**02. Transfer.** An air medical agency that provides the operational declaration of air medical transfer can provide transportation of patients from one (1) medical care facility within their designated geographic coverage area to another. ( )

**212. NON-TRANSPORT EMS AGENCY -- PATIENT MOVEMENT.**

A non-transport agency is an agency that is not intended for patient transport and cannot advertise ambulance services. A non-transport agency can move a patient by vehicle only when: ( )

**01. Accessibility of Emergency Scene.** The responding ambulance or air ambulance agency cannot access the emergency scene. ( )

**02. Licensed Personnel Level.** Patient care is provided by EMS personnel licensed at: ( )

**a.** EMT level or higher; or ( )

**b.** EMR level only when the patient care integration agreement under which the non-transport agency operates addresses and enable patient movement. The agency must ensure that its personnel are trained and credentialed in patient packaging and movement. ( )

**03. Rendezvous with Transport EMS Agency.** Movement of the patient is to rendezvous with an ambulance or air ambulance agency during which the EMS personnel must be in active communication with the ambulance or air ambulance with which they will rendezvous. ( )

**04. Report Patient Movement.** A non-transport agency must report all patient movement events to the Department within thirty (30) days of the event. ( )

**213. -- 299. (RESERVED)**

**PERSONNEL REQUIREMENTS FOR EMS AGENCY LICENSURE  
(SECTIONS 300-399)**

**300. EMS AGENCY -- GENERAL PERSONNEL REQUIREMENTS.**

Personnel must be licensed according to IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements." ( )

**01. Personnel Requirements for EMS Agency Licensure.** Each agency must ensure availability of affiliated personnel licensed and credentialed at or above the agency's highest clinical level for the entire anticipated call volume for each of the agency's operational declarations. ( )

**02. Personnel Requirements for an Agency Utilizing Emergency Medical Dispatch.** An agency dispatched by a public safety answering point (PSAP) that uses an emergency medical dispatch (EMD) process to determine the clinical needs of the patient must ensure availability of personnel licensed and credentialed at clinical levels appropriate to the anticipated call volume for each of the clinical levels the agency provides. ( )

**03. Personnel Requirements for Prehospital ALS.** A licensed Paramedic must be present whenever prehospital, prehospital support, or air medical transport ALS services are provided. ( )

**301. AMBULANCE EMS AGENCY -- PERSONNEL REQUIREMENTS.**

Each ambulance agency must ensure that there are two (2) crew members on each patient transport or transfer. The crew member providing patient care, at a minimum, must be a licensed EMT. ( )

**302. AIR MEDICAL EMS AGENCY -- PERSONNEL REQUIREMENTS.**

Each air medical agency must ensure that there are two (2) crew members, not including the pilot, on each patient transport or transfer. The crew member providing patient care, at a minimum, must be a licensed EMT. An air medical agency must also demonstrate that the following exists. ( )

**01. Personnel for Air Medical I Agency.** An Air Medical I agency must ensure that each flight includes at a minimum, one (1) licensed professional nurse and one (1) Paramedic. Based on the patient's need, an exception for transfer flights may include a minimum of one (1) licensed respiratory therapist and one (1) licensed professional nurse, or two (2) licensed professional nurses. ( )

**02. Personnel for Air Medical II Agency.** An Air Medical II agency must ensure that each flight includes at a minimum, two (2) licensed patient care providers with one (1) patient care provider licensed at or above the agency's highest clinical level of licensure. ( )

**303. CRITICAL CARE -- PERSONNEL REQUIREMENTS.**

Each ambulance or air medical agency that advertises the provision of critical care clinical capabilities must affiliate and deploy EMS personnel trained and credentialed to provide all critical care skills described in IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." ( )

**304. PLANNED DEPLOYMENT -- PERSONNEL REQUIREMENTS.**

Planned deployment allows affiliated EMS personnel to act and provide predetermined services outside of their affiliating agency's geographic coverage area. It can allow EMS personnel licensed at a higher clinical level to provide patient care within their credentialed scopes of practice even when the agency into which the planned deployment occurs is licensed at a lower clinical level. A planned deployment agreement must be formally documented and meet all the requirements listed in Section 603 of these rules. ( )

**305. AMBULANCE-BASED CLINICIANS -- PERSONNEL REQUIREMENTS.**

**01. Ambulance-Based Clinician Certified by Department.** An EMS agency that advertises or provides out-of-hospital patient care by affiliating and utilizing a currently licensed professional nurse, advanced practice professional nurse, or physician assistant, as defined in IDAPA 16.01.02, "Emergency Medical Services (EMS) - Rule Definitions," must ensure that those individuals maintain a current ambulance-based clinician certificate issued by the Department. See Section 306 of these rules for exceptions to this requirement. ( )

**02. Obtaining an Ambulance-Based Clinician Certificate.** An agency, on behalf of an individual who desires an ambulance-based clinician certificate, must provide the following information on the Department's application for a certificate: ( )

**a.** Documentation that the individual holds a current, unrestricted license to practice issued by the Board of Medicine or Board of Nursing; and ( )

**b.** Documentation that the individual has successfully completed an ambulance-based clinician course; or ( )

**c.** Documentation that the individual has successfully completed an EMT course. ( )

**03. Maintaining an Ambulance-Based Clinician Certificate.** An ambulance-based clinician certificate is valid for as long as the holder of the certificate is continuously licensed by his respective licensing board. ( )

**04. Revocation of an Ambulance-Based Clinician Certificate.** The Department may revoke an ambulance-based clinician certificate based on the procedures for administrative license actions described in IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions." ( )

**05. Currently Practicing Ambulance-Based Clinicians.** In order to continue the utilization of an ambulance-based clinician, an EMS agency must ensure that its currently practicing clinicians have obtained the Department-issued ambulance-based clinician certificate by July 1, 2015. ( )

**06. Licensed Personnel Requirements and Ambulance-Based Clinicians.** An EMR/BLS, EMT/BLS, or AEMT/ILS agency may use ambulance-based clinicians to meet the licensed personnel requirements for agency licensure. ( )

**07. Agency Responsibilities for Ambulance-Based Clinicians.** The agency must verify that each ambulance-based clinician possess a current ambulance-based clinician certificate issued by the Department. The agency must ensure that any ambulance-based clinician meets additional requirements of the corresponding licensing board. ( )

**306. UTILIZING PHYSICIAN ASSISTANTS, LICENSED PROFESSIONAL NURSES OR ADVANCED PRACTICE PROFESSIONAL NURSES.**

An AEMT/ILS ambulance agency may use a non-certified physician assistant, licensed professional nurse, or advanced practice professional nurse as the crew member who is providing ILS patient services, only when accompanied by a licensed EMT in the patient compartment of the transport vehicle. ( )

**307. -- 399. (RESERVED)**

**EMS AGENCY VEHICLE REQUIREMENTS  
(SECTIONS 400-499)**

**400. EMS AGENCY -- VEHICLE REQUIREMENTS.**

Not all EMS agencies are required to have emergency response vehicles. An agency's need for emergency response vehicles is based on the deployment needs of the agency that is declared on the most recent agency licensure application. An agency with a deployment pattern that requires emergency response vehicles must meet the following requirements: ( )

**01. Condition of Response Vehicles.** Each of the agency's EMS response vehicles must be in sound, safe, working condition. ( )

**02. Quantity of Response Vehicles.** Each EMS agency must possess a sufficient quantity of EMS response vehicles to ensure agency personnel can respond to the anticipated call volume of the agency. ( )

**03. Motor Vehicle Licensing Requirements.** Each EMS agency's response vehicles must meet the applicable Idaho motor vehicle license and insurance requirements. ( )

**04. Configuration and Standards for EMS Response Vehicles.** Each of the EMS agency's response vehicles must be appropriately configured in accordance with the declared capabilities on the most recent agency license. Each EMS response vehicle must meet the minimum requirements for applicable federal, state, industry, or trade specifications and standards for ambulance or air ambulance vehicles as appropriate. Uniquely configured EMS response vehicles must be approved by the Department prior to being put into service. ( )

**05. Location of Emergency Response Vehicles.** Each agency's EMS response vehicles must be stationed or staged within the agency's declared geographic coverage area in a manner that allows agency personnel to effectively respond to the anticipated volume and distribution of requests for service. ( )

**401. NON-TRANSPORT EMS AGENCY -- VEHICLES.**

A licensed non-transport EMS agency may use ambulance vehicles to provide non-transport services. ( )

**402. EMS AGENCY -- MINIMUM EQUIPMENT INSPECTION REQUIREMENTS.**

Any newly acquired EMS response vehicle must be inspected by the Department for medical care supplies and devices as specified in the "Minimum Equipment Standards for Licensed EMS Services," before being put into service, except when the newly acquired vehicle is a replacement vehicle and all equipment and supplies are transferred from the vehicle being taken out of service. ( )

**403. EMS AGENCY -- GROUND VEHICLE SAFETY INSPECTION REQUIREMENTS.**

Each EMS agency that deploys emergency vehicles titled and registered for use on roads and highways, with the

exception of all-terrain vehicles and utility vehicles, must meet the following inspection requirements. ( )

**01. New Vehicle Inspection.** Each newly acquired, used EMS response vehicle must successfully pass a safety inspection conducted by an inspector authorized to perform Department of Transportation (DOT) vehicle safety inspections prior to the vehicle being put in service. ( )

**02. Response Vehicle Involved in a Crash.** Each EMS response vehicle, that is involved in a crash that could result in damage to one (1) or more of the vehicle systems identified in Subsection 403.03 of this rule, must successfully pass a safety inspection conducted by an inspector authorized to perform DOT vehicle safety inspections prior to being put back in service. ( )

**03. Vehicle Inspection Standards.** Each vehicle safety inspection must verify conformity to the fuel system, exhaust, wheels and tires, lights, windshield wipers, steering, suspension, brakes, frame, and electrical system elements of a DOT vehicle safety inspection defined in Appendix G to Subchapter B of Chapter III at 49 CFR Section 396.17. ( )

**04. Vehicle Inspection Records.** Each EMS agency must keep records of all emergency response vehicle safety inspections. These records must be made available to the Department upon request. ( )

**404. -- 499. (RESERVED)**

**EMS AGENCY REQUIREMENTS AND WAIVERS  
(SECTIONS 500-599)**

**500. EMS AGENCY -- GENERAL EQUIPMENT REQUIREMENTS AND MODIFICATIONS.** Each EMS agency must meet the requirements of the "Minimum Equipment Standards for Licensed EMS Services," incorporated by reference in Section 004 of these rules, in addition to the following requirements: ( )

**01. Equipment and Supplies.** Each EMS agency must maintain sufficient quantities of medical care supplies and devices specified in the minimum equipment standards to ensure availability for each response. ( )

**02. Safety and Personal Protective Equipment.** Each EMS agency must maintain safety and personal protective equipment for licensed personnel and other vehicle occupants as specified in the minimum equipment standards. This includes equipment for body substance isolation and protection from exposure to communicable diseases and pathogens. ( )

**03. Modifications to an EMS Agency's Minimum Equipment List.** An EMS agency's minimum equipment list may be modified upon approval by the Department. Requests for equipment modifications must be submitted to the Department and include clinical and operational justification for the modification and be signed by the EMS agency's medical director. Approved modifications are granted by the Department as either an exception or an exemption. ( )

**a.** Exceptions to the agency's minimum equipment list requirements may be granted by the Department upon inspection or review of a modification request, when the circumstances and available alternatives assure that appropriate patient care will be provided for all anticipated incidents. ( )

**b.** Exemptions that remove minimum equipment and do not provide an alternative may be granted by the Department following review of a modification request. The request must describe the agency's deployment model and why there is no anticipated need for the specified equipment to provide appropriate patient care. ( )

**04. Review of an Equipment Modification Request.** Each request from an EMS agency for equipment modification may be reviewed by either the EMS Advisory Committee (EMSAC), or the EMS Physician Commission (EMSPC), or both. The recommendations from EMSAC and EMSPC are submitted to the Department which has the final authority to approve or deny the modification request. ( )

**a.** A modification request of an operational nature will be reviewed by EMSAC; ( )

- b. A modification request of a clinical nature will be reviewed by the EMSPC; and ( )
- c. A modification request that has both operational and clinical considerations will be reviewed by both. ( )

**05. Denial of an Equipment Modification Request.** An EMS agency may appeal the denial of an equipment modification request under the provisions in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ( )

**06. Renewal of Equipment Modification.** An EMS agency's equipment modification must be reviewed and reaffirmed as follows: ( )

- a. Annually, with the agency license renewal application; or ( )
- b. When the EMS agency changes its medical director. ( )

**501. AIR MEDICAL EMS AGENCY -- EQUIPMENT REQUIREMENTS AND MODIFICATIONS.** Each air medical agency must meet the requirements outlined in Section 500 of these rules, as well as the following: ( )

**01. FAA 135 Certification.** The air medical agency must hold a Federal Aviation Administration 135 certification. ( )

**02. Configuration and Equipment Standards.** Aircraft and equipment configuration that does not compromise the ability to provide appropriate care or prevent emergency care providers from safely performing emergency procedures, if necessary, while in flight. ( )

**502. -- 509. (RESERVED)**

**510. EMS AGENCY -- COMMUNICATION REQUIREMENTS.** Each EMS agency must meet the following communication requirements to obtain or maintain agency licensure. ( )

**01. Air Medical EMS Agency.** Each air medical agency must have mobile radios of sufficient quantities to ensure that every aircraft and ground crew has the ability to communicate on the frequencies 155.340 MHZ and 155.280 MHZ, with continuous tone coded squelch system encoding capabilities to allow access to the Idaho EMS radio communications system. ( )

**02. Ambulance EMS Agency.** Each ambulance EMS agency must have mobile radios of sufficient quantities to ensure that every vehicle crew has the ability to communicate on the frequencies 155.340 MHZ and 155.280 MHZ, with continuous tone coded squelch system encoding capabilities to allow access to the Idaho EMS radio communications system. ( )

**03. Non-transport EMS Agency.** Each non-transport EMS agency must have mobile or portable radios of sufficient quantities to ensure that agency personnel at an emergency scene have the ability to communicate on the frequencies 155.340 MHZ and 155.280 MHZ, with continuous tone coded squelch system encoding capabilities to allow access to the Idaho EMS radio communications system. ( )

**511. EMS AGENCY -- DISPATCH REQUIREMENTS.** Each EMS agency must have a twenty-four (24) hour dispatch arrangement. ( )

**511. -- 519. (RESERVED)**

**520. EMS AGENCY -- RESPONSE REQUIREMENTS AND WAIVERS.** Each EMS agency must respond to calls on a twenty-four (24) hour a day basis within the agency's declared geographic coverage area unless a waiver exists.

**521. NON-TRANSPORT EMS AGENCY -- WAIVER OF RESPONSE REQUIREMENT.**

The controlling authority of a non-transport agency may petition the Department for a waiver of the twenty-four (24) hour response requirement if one (1) or more of the following conditions exist: ( )

**01. Not Populated on 24-Hour Basis.** The community, setting, industrial site, or event being served by the agency is not populated on a twenty-four (24) hour basis. ( )

**02. Not on Daily Basis Per Year.** The community, setting, industrial site, or event being served by the agency does not exist on a three hundred sixty-five (365) day per year basis. ( )

**03. Undue Hardship on Community.** The provision of twenty-four (24) hour response would cause an undue hardship on the community being served by the agency. ( )

**04. Abandonment of Service.** The provision of twenty-four (24) hour response would cause abandonment of the service provided by the agency. ( )

**522. NON-TRANSPORT EMS AGENCY -- PETITION FOR WAIVER.**

**01. Submit Petition for Waiver.** The controlling authority of an existing non-transport agency desiring a waiver of the twenty-four (24) hour response requirement must submit a petition for waiver to the Department. ( )

**02. Waiver Declared on Initial Application.** The controlling authority of an applicant non-transport agency desiring a waiver of the twenty-four (24) hour response requirement must declare the request for waiver on the initial application for agency licensure to the Department. ( )

**03. Not Populated on a 24-Hour or Daily Basis -- Petition Content.** A non-transport agency with a service area with less than twenty-four (24) hours population or less than three-hundred sixty-five (365) days per year population must include the following information on the petition for waiver of the twenty-four (24) hour response requirement: ( )

**a.** A description of the hours or days the geographic area is populated. ( )

**b.** A staffing and deployment plan that ensures EMS response availability for the anticipated call volume during the hours or days of operation. ( )

**04. Undue Hardship or Abandonment of Service Waiver -- Petition Content.** A non-transport agency must include the following information on the application for waiver of the twenty-four (24) hour response requirement when that provision would cause an undue hardship on the community being served by the agency or abandonment of service: ( )

**a.** A description of the applicant's operational limitations to provide twenty-four (24) hour response. ( )

**b.** A description of the initiatives underway or planned to provide twenty-four (24) hour response. ( )

**c.** A staffing and deployment plan identifying the agency's response capabilities and back up plans for services to the community when the agency is unavailable. ( )

**d.** A description of the collaboration that exists with all other EMS agencies providing services within the applicant's geographic response area. ( )

**05. Renewal of Waivers.** The controlling authority of a non-transport agency desiring to renew a waiver of the twenty-four (24) hour response requirement must declare the request for renewal of the waiver on the annual renewal application for agency licensure to the Department. ( )

**523. -- 524. (RESERVED)**

**525. AMBULANCE OR AIR MEDICAL EMS AGENCY -- WAIVER OF RESPONSE REQUIREMENT.**  
The controlling authority of a existing ambulance or air medical agency may petition the Board of Health and for a waiver of the twenty-four (24) hour response requirement if one (1) or more of the following conditions exist: ( )

**01. Undue Hardship on Community.** The provision of twenty-four (24) hour response would cause an undue hardship on the community being served by the agency. ( )

**02. Abandonment of Service.** The provision of twenty-four (24) hour response would cause abandonment of the service provided by the agency. ( )

**526. AMBULANCE OR AIR MEDICAL EMS AGENCY -- PETITION FOR WAIVER**

**01. Submit Petition for Waiver.** The controlling authority of an existing ambulance or air medical agency desiring a waiver of the twenty-four (24) hour response requirement must submit a petition for waiver to the Board. ( )

**02. Undue Hardship or Abandonment of Service Waiver -- Petition Content.** An ambulance EMS agency must include the following information on the petition for waiver of the twenty-four (24) hour response: ( )

**a.** A description of the petitioner's operational limitations to provide twenty-four (24) hour response. ( )

**b.** A description of the initiatives underway or planned to provide twenty-four (24) hour response. ( )

**c.** A staffing and deployment plan identifying the agency's response capabilities and back-up plans for services to the community when the agency is unavailable. ( )

**d.** A description of the collaboration that exists with all other EMS agencies providing services within the petitioner's geographic response area. ( )

**527. -- 529. (RESERVED)**

**530. EMS AGENCY -- MEDICAL SUPERVISION REQUIREMENTS.**

Each EMS agency must comply with medical supervision plan requirements and designate a physician as the agency medical director who is responsible for the supervision of medical activities defined in IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." ( )

**531. -- 534. (RESERVED)**

**535. EMS AGENCY -- DATA COLLECTION AND SUBMISSION REQUIREMENTS.**

Each EMS agency must comply with the data collection and submission requirements required in IDAPA 16.02.03, "Emergency Medical Services," Section 435. ( )

**536. -- 599. (RESERVED)**

**EMS AGENCY AGREEMENTS, PLANS, AND POLICIES  
(SECTIONS 600-699)**

**600. EMS AGENCY -- AGREEMENTS, PLANS, AND POLICIES.**

When applicable, each EMS agency must make the following agreements, plans, and policies, described in Sections 600 through 699 of these rules, available to the Department upon request. ( )

**601. EMS AGENCY -- PATIENT CARE INTEGRATION.**

**01. Cooperative Agreements for Common Geographic Coverage Area.** Each ground EMS agency that shares common geographic coverage areas with other EMS agencies must develop cooperative written agreements that address integration of patient care between the agencies. A ground agency can not provide a level of care that exceeds the clinical level of a prehospital agency receiving the patient, unless the written patient integration plan specifically addresses the continuation of the higher level of care throughout the patient transport. ( )

**02. Cooperative Agreement for Non-Transport Agency.** Each non-transport EMS agency must have a cooperative written agreement with a prehospital agency that will provide patient transportation. The agreement must address integration of patient care between the agencies. A non-transport prehospital agency may not provide a level of care that exceeds the clinical level of the responding transport prehospital agency unless the integration plan specifically addresses the continuation of the higher level of care throughout the patient transport. ( )

**602. AIR MEDICAL EMS AGENCY -- PATIENT CARE INTEGRATION.**

Each air medical agency must declare and make available its patient care integration policies to the Department upon request. ( )

**603. EMS AGENCY -- PLANNED DEPLOYMENT AGREEMENTS.**

Each EMS agency that utilizes a planned deployment must develop a cooperative planned deployment agreement between the EMS agencies. The agreement must include the following: ( )

**01. Chief Administrative Officials.** Approval of the chief administrative officials of each EMS agency entering into the agreement either as the receiver of the planned deployment or the provider of the planned deployment. ( )

**02. Medical Directors.** Approval of the medical directors of each EMS agency entering into the agreement either as the receiver of the planned deployment or the provider of the planned deployment. ( )

**03. Geographic Locations and Services.** The agreement must provide the geographic locations and the services to be provided by the planned deployment. ( )

**04. Shared Resources.** The agreement must provide for any sharing of resources between each EMS agency covered by the planned deployment. ( )

**05. Equipment and Medication.** The agreement must provide for the availability and responsibility of equipment and medications for each EMS agency covered by the planned deployment. ( )

**06. Patient Integration of Care.** The agreement must provide patient integration of care by each EMS agency covered by the planned deployment. ( )

**07. Patient Transport.** The agreement must provide for patient transport considerations by each EMS agency covered by the planned deployment. ( )

**08. Medical Supervision.** The agreement must have provisions for medical supervision of each EMS agency covered by the planned deployment. ( )

**09. Quality Assurance.** The agreement must provide for quality assurance and retrospective case reviews by each EMS agency covered by the planned deployment. ( )

**604. -- 649. (RESERVED)**

**650. AIR MEDICAL EMS AGENCY -- REQUIRED POLICIES.**

Each air medical EMS agency must have the following policies on file with the Department: ( )

**01. Non-Discrimination Policy.** Each air medical EMS agency must have written non-discrimination

policies to ensure that requests for service are not evaluated based on the patient's ability to pay. ( )

**02. Weather Turn Down Policy.** Each air medical EMS agency must immediately notify other air medical agencies in common geographical areas and the Idaho EMS State Communications Center about any requests for services declined or aborted due to weather. Notification to other agencies of flights declined or aborted due to weather must be documented. ( )

**03. Patient Destination Procedure.** Each air medical EMS agency must maintain written procedures for the determination of patient destination. These procedures must: ( )

- a. Consider the licensed EMS agency destination protocol and medical supervision received; ( )
- b. Be made available to licensed EMS agencies that utilize their services; ( )
- c. Honor patient preference if: ( )
  - i. The requested facility is capable of providing the necessary medical care; and ( )
  - ii. The requested facility is located within a reasonable distance not compromising patient care or the EMS system. ( )

**04. Safety Program Policy.** Each air medical EMS agency must maintain a safety program policy that includes: ( )

- a. Designation of a safety officer; ( )
- b. Designation of a multi-disciplinary safety committee that includes: pilot, medical personnel, mechanic, communication specialist, and administrative staff; ( )
- c. Post-Accident Incident Plan; ( )
- d. Fitness for Duty Requirements; ( )
- e. Annual Air Medical Resource Management Training; ( )
- f. Procedures for allowing a crew member to decline or abort a flight; ( )
- g. Necessary personal equipment, apparel, and survival gear appropriate to the flight environment. Helmets must be required for each EMS crew member and pilot during helicopter operations; and ( )
- h. A procedure to review each flight for safety concerns and report those concerns to the safety committee. ( )

**05. Training Policy.** Each air medical EMS agency must have written documentation of initial and annual air medical specific recurrent training for air ambulance personnel. Education content must include: ( )

- a. Altitude physiology; ( )
- b. Stressors of flight; ( )
- c. Air medical resource management; ( )
- d. Survival; ( )
- e. Navigation; and ( )
- f. Aviation safety issues including emergency procedures. ( )

651. -- 699. (RESERVED)

**EMS AGENCY UTILIZATION OF AIR MEDICAL SERVICES  
(SECTIONS 700-799)**

**700. EMS AGENCY -- CRITERIA TO REQUEST AN AIR MEDICAL RESPONSE.**

Each ground EMS agency must establish written criteria for the agency's licensed EMS personnel that provides decision-making guidance for requesting an air medical response to an emergency scene. This criteria must be approved by the agency's medical director. The following conditions must be included in the criteria: ( )

**01. Clinical Conditions.** Each licensed EMS agency must develop written criteria based on best medical practice principles for requesting an air medical response for the following clinical conditions: ( )

- a. The patient has a penetrating or crush injury to head, neck, chest, abdomen, or pelvis; ( )
- b. Neurological presentation suggestive of spinal cord injury; ( )
- c. Evidence of a skull fracture (depressed, open, or basilar) as detected visually or by palpation; ( )
- d. Fracture or dislocation with absent distal pulse; ( )
- e. A glasgow coma score of ten (10) or less; ( )
- f. Unstable vital signs with evidence of shock; ( )
- g. Cardiac arrest; ( )
- h. Respiratory arrest; ( )
- i. Respiratory distress; ( )
- j. Upper airway compromise; ( )
- k. Anaphylaxis; ( )
- l. Near drowning; ( )
- m. Changes in level of consciousness; ( )
- n. Amputation of an extremity; and ( )
- o. Burns greater than twenty percent (20%) of body surface or with suspected airway compromise. ( )

**02. Complications to Clinical Conditions.** Each licensed EMS agency must develop a written policy that provides guidance for requesting an air medical response when there are complicating conditions associated with the clinical conditions listed in Subsection 700.01 of this rule. The complicating conditions must include the following: ( )

- a. Extremes of age; ( )
- b. Pregnancy; and ( )
- c. Patient "do not resuscitate" status as described in IDAPA 16.02.03, "Emergency Medical ( )

Services,” Section 400. ( )

**03. Operational Conditions for Air Medical Response.** Each licensed EMS agency must have written criteria to provide guidance to the licensed EMS personnel for the following operational conditions: ( )

**a.** Availability of local hospitals and regional medical centers; ( )

**b.** Air medical response to the scene and transport to an appropriate hospital will be significantly shorter than ground transport time; ( )

**c.** Access to time sensitive medical interventions such as percutaneous coronary intervention, thrombolytic administration for stroke, or cardiac care; ( )

**d.** When the patient's clinical condition indicates the need for advanced life support and air medical is the most readily available access to advanced life support capabilities; ( )

**e.** As an additional resource for a multiple patient incident; ( )

**f.** Remote location of the patient; and ( )

**g.** Local destination protocols. ( )

**701. EMS AGENCY -- EMS PERSONNEL REQUEST FOR AIR MEDICAL RESPONSE.**

Licensed EMS personnel en route to or at the emergency scene have the primary responsibility and authority to request the response of air medical services using the local incident management system and licensed EMS agency written criteria described in Section 700 of these rules. ( )

**702. EMS AGENCY -- CANCELLATION OF AN AIR MEDICAL RESPONSE.**

Following dispatch of air medical services, an air medical response may only be cancelled upon completion of a patient assessment performed by licensed EMS personnel. ( )

**703. EMS AGENCY -- ESTABLISHED CRITERIA FOR SIMULTANEOUS DISPATCH.**

A ground EMS agency may establish criteria for simultaneous dispatch for air and ground medical response. Air medical services will not launch to an emergency scene unless requested in accordance with Subsection 720.01 of these rules. ( )

**704. EMS AGENCY-- SELECTION OF AIR MEDICAL AGENCY.**

Each EMS agency has the responsibility to select an appropriate air medical service EMS agency. ( )

**01. Written Policy to Select Air Medical Agency.** Each EMS agency must have a written policy that establishes a process to select an air medical service. ( )

**02. Policy for Patient Requests.** The written policy must direct EMS personnel to honor a patient request for a specific air medical service when the circumstances will not jeopardize patient safety or delay patient care. ( )

**705. -- 719. (RESERVED)**

**720. EMS AGENCY -- COMMUNICATIONS WITH AIR MEDICAL SERVICES.**

**01. Responsibility to Request an Air Medical Response.** In compliance with the local incident management system, each EMS agency must establish a uniform method of communication to request an air medical response. ( )

**02. Required Information to Request an Air Medical Response.** Requests for an air medical response must include the following information as it becomes available: ( )

- a. Type of incident; ( )
- b. Landing zone location or GPS (latitude/longitude) coordinates, or both; ( )
- c. Scene contact unit or scene incident commander, or both; ( )
- d. Number of patients if known; ( )
- e. Need for special equipment; ( )
- f. Estimated weight of the patient; ( )
- g. How to contact on scene EMS personnel; and ( )
- h. How to contact the landing zone officer. ( )

**03. Notification of Air Medical Response.** The air medical agency must notify the State EMS Communication Center within ten (10) minutes of launching an aircraft in response to a request for medical transport. Notification must include: ( )

- a. The name of the requesting entity; ( )
- b. Location of the landing zone; and ( )
- c. Scene contact unit and scene incident commander, if known. ( )

**04. Estimated Time of Arrival at the Specified Landing Zone.** Upon receipt of a request for air medical emergency services, the air medical agency must provide the requesting entity with an estimated time of arrival (ETA) at the location of the specified landing zone. All changes to that ETA must immediately be reported to the requesting entity. ETAs are to be reported in clock time, specific to the appropriate time zone. ( )

**05. Confirmation of Air Medical Response Availability.** Upon receipt of a request for an air medical response, the air medical agency must inform the requesting entity whether the specified air medical unit is immediately available to respond. ( )

**721. -- 729. (RESERVED)**

**730. EMS AGENCY -- LANDING ZONE PROCEDURES FOR AIR MEDICAL RESPONSE.**

**01. Establish Landing Zone Procedures.** A licensed ambulance or non-transport EMS agency in conjunction with an air medical agency must have written procedures for the establishment of a landing zone. These procedures must be compatible with the local incident management system. ( )

**02. Responsibilities of Landing Zone Officer.** The procedures for establishment of a landing zone must include identification of a Landing Zone Officer who is responsible for the following: ( )

- a. Landing zone preparation; ( )
- b. Landing zone safety; and ( )
- c. Communication between the ground EMS agency and the air medical agency. ( )

**03. Final Decision to Use Established Landing Zone.** The air medical pilot may refuse the use of an established landing zone. In the event of a pilot's refusal to land, the landing zone officer must initiate communications to identify an alternate landing zone. ( )

**731. EMS AGENCY -- REVIEW OF AIR MEDICAL RESPONSES.**

Each EMS agency must provide incident specific patient care related data identified and requested by the Department in the review of air medical response criteria. ( )

**732.-- 799. (RESERVED)**

**EMS AGENCY INSPECTIONS  
(SECTIONS 800-899)**

**800. EMS AGENCY -- INSPECTIONS BY THE DEPARTMENT.**

Representatives of the Department are authorized to enter an agency's facility at reasonable times to inspect an agency's vehicles, equipment, response records, and other necessary items to determine that the EMS agency is in compliance with governing Idaho statutes and administrative rules. ( )

**801. EMS AGENCY -- INSPECTION REQUESTS AND SCHEDULING.**

An applicant eligible for agency inspection must contact the Department to schedule an inspection. In the event that the acquisition of capital equipment, hiring or licensure of personnel is necessary for the inspection process, the applicant must notify the Department when ready for the inspection. ( )

**802. EMS AGENCY -- INSPECTION TIMEFRAME AFTER NOTIFICATION OF ELIGIBILITY.**

An applicant must schedule and have an inspection completed within six (6) months of notification of eligibility by the Department. An application without an inspection completed within six (6) months is void and must be resubmitted as an initial application. ( )

**803. -- 804. (RESERVED)**

**805. EMS AGENCY -- INITIAL AGENCY INSPECTION.**

The Department will perform an initial inspection, which is an integral component of the application process, to ensure the EMS Agency applicant is in compliance regarding the following: ( )

**01. Validation of Initial Application.** Physically validate the information contained in the application. ( )

**02. Verification of Compliance.** Verify the applicant is in compliance with governing Idaho statutes and administrative rules. ( )

**03. Observations and Assistance.** When requested by the applicant, the Department will provide observations and assistance where appropriate. ( )

**806. EMS AGENCY -- DEMONSTRATION OF CAPABILITIES DURING INSPECTION.**

The Department will review historical and current information during the annual, random and targeted inspections whereas an applicant must demonstrate the following during the initial inspection process: ( )

**01. Validation of Ability to Submit Data.** Each EMS agency applicant must demonstrate the ability to submit data described in Section 535 of these rules. ( )

**02. Validation of Ability to Communicate.** Each EMS agency applicant must demonstrate the ability to communicate via radio with the state EMS communications center, local dispatch center, neighboring EMS agencies on which the applicant will rely for support, first response, air and ground patient transport, higher level patient care, or other purposes. ( )

**807. -- 809. (RESERVED)**

**810. EMS AGENCY -- ANNUAL AGENCY INSPECTION.**

The Department will perform an annual inspection which is an integral component of the agency license renewal process that serves to: ( )

**01. Review EMS Agency History.** Review the agency's history of compliance during the most recent licensure period. ( )

**02. Verification of Compliance.** Verify current agency compliance with governing Idaho statutes and administrative rules. ( )

**03. Observations and Assistance.** When requested by the applicant, the Department will provide observations and assistance where appropriate. ( )

**811. EMS AGENCY -- RANDOM AGENCY INSPECTION.**  
The Department will perform a random inspection serves to: ( )

**01. Verification of Compliance.** Validate the agency's continual compliance with governing Idaho statutes and administrative rules. ( )

**02. Observations and Assistance.** When requested by the applicant, the Department will provide observations and assistance where appropriate. ( )

**812. EMS AGENCY -- TARGETED AGENCY INSPECTION.**  
A targeted EMS agency inspection serves to answer specific concerns related to the agency's compliance with governing Idaho statutes and administrative rules. ( )

**813. -- 814. (RESERVED)**

**815. NON-TRANSPORT EMS AGENCY -- EQUIPMENT TO BE INSPECTED.**  
Each non-transport EMS agency must have the minimum equipment specified in the "Minimum Equipment Standards for Licensed EMS Services," incorporated by reference in Section 004 of these rules. ( )

**01. Access to Equipment.** Licensed personnel must have access to the required equipment as specified in the agency minimum equipment standards. ( )

**02. Equipment Storage.** The equipment must be stored on a dedicated response vehicle or be in the possession of licensed personnel. ( )

**816. AMBULANCE EMS AGENCY -- EQUIPMENT TO BE INSPECTED.**  
Each ambulance EMS agency must have the minimum equipment specified in the "Minimum Equipment Standards for Licensed EMS Services," incorporated by reference in Section 004 of these rules. ( )

**01. Medical Care Supplies.** Each ambulance must be equipped with medical care supplies and devices as specified in the agency minimum equipment standards unless Subsection 816.02 or 816.03 of this rule applies. ( )

**02. Public Safety Answering Point Dispatch.** An agency dispatched by a public safety answering point (PSAP) that uses an emergency medical dispatch (EMD) process to determine the clinical needs of the patient must ensure the availability of medical care supplies and devices as specified in the agency minimum equipment standards that are appropriate for each response. ( )

**03. Agency Transferring Patients.** An agency transferring patients from one (1) medical care facility included in their designated geographic coverage area to another will be equipped with medical care supplies and devices appropriate for the patient identified by the sending facility. ( )

**817. AIR MEDICAL EMS AGENCY -- EQUIPMENT TO BE INSPECTED.**  
Each air medical EMS agency must have the medical equipment specified in the agency minimum equipment standards available for each response. ( )

**818. -- 819. (RESERVED)**

**820. EMS AGENCY -- VEHICLES TO BE INSPECTED.**

**01. Initial Agency Inspections.** Each EMS response vehicle must be inspected for medical care supplies and devices specified in the "Minimum Equipment Standards for Licensed EMS Services," incorporated by reference in Section 004 of these rules during an initial agency inspection. ( )

**02. Annual Inspections.** A random sample of vehicles may be selected for inspection during annual inspections provided the agency has a vehicle stockage and inventory plan that provides assurance that all response vehicles meet the minimum equipment standards. If vehicles selected for random sampling fail to demonstrate compliance with the minimum equipment standards, the entire fleet of EMS response vehicles may be inspected. ( )

**03. Targeted Inspections.** A targeted inspection will focus on the specific elements of concern and may not include any vehicle inspections. ( )

**821. -- 824. (RESERVED)**

**825. EMS AGENCY -- MULTIPLE ORGANIZATION EMS AGENCY INSPECTIONS.**

During an agency's renewal inspection, its deployment strategy will be reviewed for that point in time and the system's vehicles and equipment will be inspected accordingly. ( )

**826. -- 829. (RESERVED)**

**830. EMS AGENCY -- CONDITION THAT RESULTS IN VEHICLE OR AGENCY OUT OF SERVICE.**

Upon discovery of a condition during inspection that could reasonably pose an immediate threat to the safety of the public or agency staff, the Department may declare the condition unsafe and remove the vehicle or agency from service until the unsafe condition is corrected. ( )

**831. -- 839. (RESERVED)**

**840. EMS AGENCY -- EXEMPTIONS FOR AGENCIES CURRENTLY ACCREDITED BY A NATIONALLY RECOGNIZED PROFESSIONAL EMS ACCREDITATION AGENCY.**

Upon petition by the accredited agency, the Department will review the accreditation standards under which the accredited agency was measured and may waive specific duplicated annual inspection requirements where appropriate. If an external accreditation inspection is found to be more rigorous than that of the Department, the Department may elect to relax the frequency of Department annual inspections or waive Department annual inspections altogether. ( )

**841. -- 899. (RESERVED)**

**EMS AGENCY LICENSURE PROCESS  
(SECTIONS 900-999)**

**900. EMS AGENCY -- APPLICATION FOR INITIAL LICENSURE.**

To be considered for initial EMS agency licensure an organization seeking licensure must request, complete, and submit the standardized EMS agency initial license application form provided by the Department. ( )

**901. EMS AGENCY -- LICENSURE EXPIRATION.**

**01. Duration of Agency License.** Each EMS agency license, unless otherwise declared on the license, is valid for one (1) year from the end of the month of issuance by the Department. ( )

**02. Agency License Expiration Dates.** To the extent possible, each EMS agency license expiration date is established depending on the geographic location of the agency. The geographic distribution of expiration dates can be obtained from the Department. See Section 005 of these rules for contact information. ( )

**902. -- 909. (RESERVED)**

**910. EMS AGENCY -- INFORMATION REQUIRED ON INITIAL APPLICATION.**

Each application for initial licensure must contain the required information listed in Sections 911 through 922 of these rules. The information must be submitted on the Department's standardized agency license application form. ( )

**911. CALL VOLUME.**

Each applicant must submit a categorized breakdown of call volume projections for the first full year of operation in each of the following categories: ( )

**01. Operational Declarations.** The total call volume for each operational declaration within the applicant's geographic coverage area. ( )

**02. Patient Transport Percentage.** The percentage of patients requiring transport. ( )

**912. GEOGRAPHIC COVERAGE AREA.**

Each applicant must provide a specific description of the Idaho jurisdictions that the applicant will serve using known geopolitical boundaries or geographic coordinates and a graphic representation of the same. ( )

**01. Declare Coverage Area for Service Types and Operations.** Each applicant must declare a geographic coverage area for each requested service type and operational declaration. Each service type and operational declaration can have a different geographic coverage area. ( )

**02. Transfer or Air Medical Transfer Declarations.** Each applicant with the operational declaration of transfer or air medical transfer will establish its geographic coverage area by declaring which sending facilities they routinely respond to if requested. ( )

**913. STAFFING.**

Each applicant must submit staffing projections for the first full year of operation that includes the following. ( )

**01. Personnel Roster.** The roster must identify all licensed personnel by name and licensure level. ( )

**02. Proof of Licensure.** Applicant must provide documentation that ensures all licensed personnel are appropriately licensed and credentialed. ( )

**03. Identify Compensation Type.** Identify each individual listed as: ( )

**a.** Uncompensated volunteer; ( )

**b.** Compensated volunteer; ( )

**c.** Part-time paid; or ( )

**d.** Full-time paid. ( )

**04. Staffing Pattern.** Provide a description of how the staffing pattern will ensure appropriately licensed personnel are available to provide the required care. ( )

**914. VEHICLES AND EQUIPMENT.**

Each applicant must submit a list of the agency's vehicles and equipment. ( )

**01. Shared Vehicles and Equipment.** The applicant must declare all vehicles and equipment that are shared with another agency, other license category, or operational declaration. ( )

**02. Station and Use of Vehicles and Equipment.** The applicant must describe how the vehicle or

equipment is stationed, used, and the frequency of use by each license category, operational declaration, and agency. ( )

**915. COMMUNICATIONS.**

Each applicant must submit a list of the agency's communications equipment as provided in Section 510 of these rules. ( )

**916. DISPATCH AGREEMENT.**

Each applicant must submit a copy of the dispatch agreement and include it in the agency's application. The dispatch agreement must be signed by an official from the dispatch organization and by the applicant. ( )

**917. EXTRICATION SERVICE PROVIDER.**

Each applicant that intends to provide prehospital care, but does not plan to perform extrication services, must identify what organizations, if any, will perform extrication operations in its geographical response area. ( )

**918. AGENCY COSTS AND REVENUE.**

For informational purposes, the applicant must submit a categorized breakdown of cost and revenue projections for the first full year of operation in each of the following categories: ( )

- 01. Projected Operating Costs.** Operating costs specific to the EMS operation. ( )
- 02. Projected Revenue.** Revenues specific to the EMS operation. ( )
- 03. Projected Capital.** Capital resources and purchases specific to the EMS operation; ( )
- 04. Projected Personnel Costs.** Personnel costs specific to the EMS operation; and ( )
- 05. Projected Tax-Based Revenue.** Tax-based revenue and support specific to the EMS operation. ( )

**919. RESPONSE TIMES.**

Each applicant must submit a statement of response time projections described below. ( )

**01. Projected Response Times with Data.** An applicant in an area where response time data for a similar agency exists will describe how the model declared in the application will change known response times within the geographic coverage areas. Applicants will submit, on the agency application, declarations of the following: ( )

**a.** The longest response time recorded in the preceding twenty-four (24) months by a similar agency within the geographic coverage area, responding to an emergency call in ideal weather during daylight hours. The longest known response time declaration will include a description of the beginning and ending points of the response and a description of how the applicant will affect this response time. ( )

**b.** The projected longest response time within the geographic coverage area, responding to an emergency call in ideal weather during daylight hours. The longest projected response time declaration will include a description of the beginning and ending points of the response and the predicted frequency of calls to the area with the longest projected response time. ( )

**c.** The average recorded response time in the preceding twenty-four (24) months by a similar agency within the geographic coverage area, responding to an emergency call in ideal weather during daylight hours. ( )

**d.** An applicant's projected average response time within the geographic coverage area, responding to an emergency call in ideal weather during daylight hours and a description of how the applicant will achieve this average response time. ( )

**02. Projected Response Times with No Data.** An applicant in an area where no response time data for a similar agency exists will only be required to submit response time projections. Applicants will submit, on the

agency application, declarations of the following: ( )

**a.** The projected longest response time within the geographic coverage area, responding to an emergency call in ideal weather during daylight hours. The longest projected response time declaration will include a description of the beginning and ending points of the response and the predicted frequency of calls to the area with the longest projected response time. ( )

**b.** An applicant's projected average response time within the geographic coverage area, responding to an emergency call in ideal weather during daylight hours and a description of how the applicant will achieve this average response time. ( )

**920. CLINICAL BENEFITS.**

Each applicant must submit a narrative describing the projected clinical benefits that will result from licensure. The narrative must include the following: ( )

**01. Description from Medical Director for Change.** An endorsement from the applicant's medical director that describes the rationale for change. ( )

**02. Description of Changes to Level of Care.** A description of the projected change in the level of care provided for patients within the geographic coverage area. ( )

**03. Description of Changes to Response for Treatment.** A description of the projected change in time to treatment for patients within the geographic coverage area. ( )

**04. Description of Planned Location of Resources.** A description of the location of agency resources and equipment available to the applicant. ( )

**05. Description of Impact on Community.** A description of the impact on other resources and the community. ( )

**06. Description of Personnel Training.** A description of the process to train personnel. ( )

**921. MEDICAL SUPERVISION PLAN.**

Each applicant must include a Medical Supervision Plan described in IDAPA 16.02.02, "Rules of the Emergency Medical Services (EMS) Physician Commission." ( )

**922. MEDICAL DIRECTOR AGREEMENT.**

Each applicant must have a signed agreement with its medical director described in IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." ( )

**923. -- 929. (RESERVED)**

**930. AGENCY APPLICATION REVIEW AND NOTIFICATIONS.**

The Department will review the application for completeness upon receipt. The Department will make the following notifications following the review of an agency application: ( )

**01. Reply to Applicant.** The Department will send a written reply to the applicant within fourteen (14) days of receipt verifying the application or any subsequent application material was received and found to be either complete or incomplete. ( )

**02. Notification of Incomplete Application.** An applicant, whose application is determined to be incomplete, will be given the opportunity to address the findings of the Department's initial review and resubmit documentation needed to complete the application. ( )

**03. No Action After Notification of Incomplete Application.** Any incomplete application having no action taken by the applicant within sixty (60) days of notification by the Department is considered void and will need to be resubmitted as an initial application. ( )

**04. Notification to Other Jurisdictions.** Within fourteen (14) days of receipt of a completed application for agency licensure, which includes an ongoing license duration and operational declarations other than non-public, the Department will send a written notice to all cities, counties, and other units of local government that have any geographic coverage area in common with the applicant. ( )

**05. Content of Notification.** The notice will provide the applicant's proposed licensure status that includes: ( )

**a.** Geographic coverage area; ( )

**b.** Agency type; ( )

**c.** Clinical level of services; ( )

**d.** Operational declarations; and ( )

**e.** A summary of any declarations made by the applicant that assume knowledge, cooperation, or collaboration of any of the cities, counties, and other units of local government that have any geographic coverage area in common with the applicant. ( )

**06. Notification to EMS Agencies in Geographic Coverage Area.** A notice will be sent to EMS agencies that share a geographic coverage area with applications requesting a license with limited duration. ( )

**931. -- 939. (RESERVED)**

**940. APPLICATION EVALUATION.**

**01. Department Evaluation.** The Department evaluates the application for compliance with the standards established in governing Idaho statutes and administrative rules that are in effect at the time the application is submitted. ( )

**02. Actions Following Notification.** An applicant, whose application is determined to be other than compliant, is given the opportunity to address the findings of the Department review and resubmit documentation needed to either bring the application into compliance or address the concerns found in the initial Department review. ( )

**03. Appeals for Refusal to License.** Appeals for refusal to issue an agency license are processed according to IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ( )

**04. Compliant Application.** An applicant, whose application is found to be in compliance with Sections 56-1011 through 56-1023, Idaho Code, and governing administrative rules in effect, will receive an acknowledgment of eligibility for an agency inspection with its notification of compliance. ( )

**941. -- 949. (RESERVED)**

**950. EMS AGENCY LICENSURE RENEWAL.**

**01. Request Renewal Application.** Each EMS agency seeking to renew its license must request the most current standardized EMS license renewal application provided by the Department. The most current standardized renewal application can be obtained by contacting the Department. ( )

**02. Timeframe to Submit Renewal Application.** Each EMS agency must submit a completed application for license renewal to the Department no earlier than ninety (90) days and no later than sixty (60) days prior to the expiration date of the current license. ( )

**951. INFORMATION REQUIRED ON THE AGENCY RENEWAL APPLICATION.**

Each application for license renewal must contain the required information listed in Sections 952 through 960 of these rules on the Department's standardized agency license renewal application form. ( )

**952. HISTORICAL CALL VOLUME.**

Each agency must submit a categorized breakdown of historical call volume for the preceding year of operation in each of the following categories:: ( )

**01. Total Call Volume.** The total call volume for the applicant's geographic coverage area; and ( )

**02. Percentage Requiring Transport.** The percentage of patients requiring transport. ( )

**953. CHANGES TO GEOGRAPHIC COVERAGE AREA.**

Any changes made to the geographic coverage area made by agency annexation must be described on the renewal application. Any other changes to the geographic coverage area requires an initial license application. ( )

**954. CURRENT STAFFING PLAN.**

Each agency must submit its current staffing plan that includes: ( )

**01. Current Personnel Roster.** The roster must identify all current licensed personnel by name and license level. ( )

**02. Current Personnel Are Licensed.** The agency must ensure that all licensed personnel are appropriately licensed and credentialed. ( )

**03. Current Compensation Identification.** The agency must identify current individuals listed as: ( )

**a.** Uncompensated volunteer; ( )

**b.** Compensated volunteer; ( )

**c.** Part-time paid; or ( )

**d.** Full-time paid. ( )

**04. Description of Current Staffing Plan.** The agency must describe how the staffing pattern continues to ensure appropriately licensed personnel are available to provide the required care. ( )

**955. VERIFICATION OF VEHICLES AND EQUIPMENT.**

Each agency will verify on the renewal application a list of vehicles and equipment in use by the agency. ( )

**01. Current Shared Vehicles and Equipment.** The agency must declare any vehicles and equipment that are shared with another agency or other license category. ( )

**02. How Currently Stationed and Used.** The agency must describe how the vehicle or equipment is stationed, used, and the frequency of use by each license category and agency. ( )

**956. VERIFICATION OF COMMUNICATIONS.**

Each agency must verify its list of communications equipment in use by the agency. ( )

**957. VERIFICATION OF DISPATCH AGREEMENT.**

Each agency must verify that no changes have been made to the dispatch agreement included in its prior agency application. ( )

**958. HISTORICAL RESPONSE TIMES.**

Each agency must submit a historical review of response times as described below. ( )

- 01. Longest Response Time.** ( )
- a.** The longest response time within the geographic coverage area, responding to an emergency call in ideal weather during daylight hours; and ( )
- b.** The longest known response time declaration must include a description of the beginning and ending points of the response and the frequency of calls to the area with the longest projected response time. ( )
- 02. Average Response Time.** The agency's average response time within the geographic coverage area when responding to an emergency call in ideal weather during daylight hours. ( )
- 959. CHANGES TO MEDICAL SUPERVISION PLAN.** ( )  
Each agency must include any changes made to its Medical Supervision Plan. ( )
- 960. CHANGES TO EXTRICATION SERVICE PROVIDER.** ( )  
Each agency must include any changes made to organizations providing extrication for the agency. ( )
- 961. -- 964. (RESERVED)**
- 965. ADDITIONAL INFORMATION REQUIRED AFTER JULY 1, 2014.** ( )  
After July 1, 2014, each agency that obtains a new license, changes the clinical level of licensed personnel it utilizes, changes its geographic coverage area (except by agency annexation), begins or discontinues providing patient transport services, or adds prehospital or transfer operational declarations must submit the following on the renewal application: ( )
- 01. Costs and Revenue.** A categorized breakdown of costs and revenue in each of the categories listed on the initial agency renewal application. ( )
- 02. Narrative of Clinical Benefits.** A narrative describing the actual clinical benefits that resulted from licensure that includes a review of the declarations made on the agency license application. ( )
- 966. EVALUATION OF COMPLETED RENEWAL APPLICATIONS.**
- 01. Evaluation of Completed Renewal Application.** When an application is received, the Department will, within fourteen (14) days of receipt, evaluate the application for completeness and compliance with the standards in governing Idaho statutes and administrative rules that are in effect at the time of application submission. ( )
- 02. Notification of Renewal Evaluation Findings.** The Department will notify the agency in writing that the evaluation found the application to be one of the following: ( )
- a.** Compliant; ( )
- b.** Incomplete; ( )
- c.** Complete with concerns; or ( )
- d.** Non-compliant. ( )
- 03. Renewal Application Not in Compliance.** An agency whose renewal application is determined to be other than complete and compliant will be given the opportunity to address the findings of the Department's initial review and resubmit documentation needed to either bring the renewal application into compliance or address the concerns found in the Department's review. ( )
- 967. INCOMPLETE OR NONCOMPLIANT APPLICATION AT LICENSE EXPIRATION.** ( )  
If an application is not complete and compliant and is not resolved prior to the expiration date of the license, an agency license will not lapse while undergoing review by the Department provided the agency submitted a timely

application and takes action to meet licensure requirements within thirty (30) days of notification by the Department. ( )

**968. APPEALS PROCESS.**

An appeal for refusal to grant renewal of an agency license will be processed under IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ( )

**969. COMPLETE AND COMPLIANT RENEWAL APPLICATION.**

When a renewal application is found to be complete and in compliance, the Department will notify the agency and provide a list of not less than five (5) available dates and times within a thirty (30) day period in which to schedule the required renewal inspection. ( )

**970. TIMEFRAME FOR RENEWAL INSPECTIONS.**

Each agency must successfully complete an annual inspection within the thirty (30) day period described in Sections 800 through 809 of these rules in order to obtain a renewed license. ( )

**971. LAPSED LICENSE.**

**01. Application Not Submitted Prior to Expiration of Current License.** An agency that does not submit a complete application as prescribed in these rules will be considered lapsed. The license will no longer be valid. ( )

**02. Grace Period.** No grace periods or extensions to an expiration date will be granted when an agency has not submitted a completed renewal application within the timeframes described in Section 950 of these rules. ( )

**03. Lapsed License.** An agency that has a lapsed license cannot provide EMS services. ( )

**04. To Regain Agency Licensure.** An agency with a lapsed license will be considered an applicant for initial licensure and is bound by the same requirements and processes as an initial applicant. ( )

**972. -- 979. (RESERVED)**

**980. EMS AGENCY LICENSE -- NONTRANSFERABLE.**

An EMS agency license issued by the Department cannot be transferred or sold. ( )

**981. CHANGES TO A CURRENT LICENSE.**

An agency's officials must submit an agency update to the Department within sixty (60) days of any of the following changes: ( )

**01. Changes Requiring Update to Department.** An agency's officials must submit an agency update to the Department within sixty (60) days of any of the following changes: ( )

**a.** Changes made to the geographic coverage area by agency annexation; ( )

**b.** Licensed personnel added or removed from the agency affiliation roster. If licensed personnel are removed for cause, a description of the cause must be included; ( )

**c.** Vehicles or equipment added or removed from the agency; ( )

**d.** Changes to the agency communication plan or equipment; ( )

**e.** Changes to the agency dispatch agreement; or ( )

**f.** Changes to the agency Medical Supervision Plan. ( )

**02. Changes Requiring Initial Licensure Application.** When an agency decides to make any of the

following changes, it must submit an initial agency application to the Department and follow the initial application process described in Sections 900 through 922 of these rules: ( )

- a. Clinical level of licensed personnel it utilizes; ( )
- b. Geographic coverage area changes, except by agency annexation; ( )
- c. A non-transport agency that intends to provide patient transport or an ambulance agency that intends to discontinue patient transport and become a non-transport agency; or ( )
- d. An agency that intends to add prehospital or transfer operational declarations. ( )

**982. -- 989. (RESERVED)**

**990. TRANSITION TO THE LICENSURE MODELS DESCRIBED IN THIS CHAPTER OF RULES.**

**01. Timeframe to Transition to the New Licensing Model.** Each EMS agency licensed by the Department prior to July 1, 2014, will transition to a licensing model described in these rules at the expiration of its current agency license. A currently licensed agency must submit a licensure transition application, provided by the Department, in order to renew its agency license. ( )

**02. Review Process of Transition Applications.** Each licensure transition application submitted by a currently licensed agency is subject to the same Department application evaluation process described in Section 966 of these rules. ( )

**991. -- 999. (RESERVED)**

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.01.07 - EMERGENCY MEDICAL SERVICES (EMS) -- PERSONNEL LICENSING REQUIREMENTS

DOCKET NO. 16-0107-1301

#### 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 56-1011 through 56-1023 (Board), and 56-1003 (Director), Idaho Code.

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

<b>Thursday, August 22, 2013 6:00 p.m. - 7:00 p.m.</b>	<b>Monday, August 26, 2013 3:30 p.m. - 4:30 p.m.</b>	<b>Wednesday, August 28, 2013 6:00 p.m. - 7:00 p.m.</b>
<b>Coeur d'Alene Public Library Community Room 702 E. Front Ave. Coeur d'Alene, ID 83814</b>	<b>EMS Bureau Conference Room 650 W. State St. B-25 Boise, ID 83702</b>	<b>Fire Station #2 Training Room 1539 N Hayes Pocatello, ID 83204</b>

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

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

Over the past several years, meetings have been held to negotiate and discuss the rewrite and update of the Emergency Medical Services chapters of rules. The changes being made to this chapter align these rules with new EMS chapters being implemented to update definitions for the ever-changing technology used by emergency medical services providers across the state, and referencing the new EMS Agency Licensing chapter. These rules need to be amended to avoid confusion and ensure all EMS chapters use consistent terminology and are in compliance with statutes and rules.

These rules changes will align this chapter with the new chapters of rules by adding references to the new chapters and removing sections that are no longer needed or required to be in this chapter.

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

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

The Emergency Medical Services (EMS) program is funded through dedicated funds. This rulemaking has no fiscal impact to those funds or to the state general fund. This rulemaking is intended to be cost-neutral.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2013, [Vol. 13-4, page 13 and 14](#), and May 1, 2013, [Vol. 13-5, page 75 and 76](#), Idaho Administrative Bulletins, under Docket No. 16-0203-1301, for "Emergency Medical Services." In addition to the negotiated townhall meetings held around the state, a task force committee, comprised of EMS professionals and interested stakeholder groups, met to develop the rule concepts.

**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 proposed rule, contact Chris Stoker 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 August 28, 2013.

DATED this 1st day of July, 2013.

Tamara Prisock  
DHW - Administrative Rules Unit  
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](mailto:dhwrules@dhw.idaho.gov)

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**THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 16-0107-1301**

**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. (3-29-12)

**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. (3-29-12)

**03. Street Address.** (3-29-12)

**a.** The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (3-29-12)

**b.** The EMS Bureau of Emergency Medical Services and Preparedness is located at 650 W. State Street, Suite B-17, Boise, Idaho 83702. (~~3-29-12~~)( )

**04. Telephone.** (3-29-12)

**a.** The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (3-29-12)

**b.** The telephone number for the EMS Bureau of Emergency Medical Services and Preparedness is (208) 334-4000. The toll-free, phone number is 1-877-554-3367. (~~3-29-12~~)( )

**05. Internet Websites.** (3-29-12)

**a.** The Department's internet website is found at <http://www.healthandwelfare.idaho.gov>. (3-29-12)

**b.** The Bureau of Emergency Medical Services ~~Bureau's~~ and Preparedness internet website is found at <http://www.idahoems.org>. (~~3-29-12~~)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. DEFINITIONS AND ABBREVIATIONS.**

For the purposes of this chapter, ~~of rules, the following terms~~ the definitions in IDAPA 16.01.02, "Emergency Medical Services (EMS) -- Rule Definitions" apply. ~~(3-29-12)( )~~

- ~~01. **Advanced Emergency Medical Technician (AEMT).** An AEMT is a person who: (3-29-12)~~
- ~~a. Has met the qualifications for licensure in Sections 56-1011 through 56-1023, Idaho Code, and these rules; (3-29-12)~~
- ~~b. Is licensed by the EMS Bureau under Sections 56-1011 through 56-1023, Idaho Code; (3-29-12)~~
- ~~c. Carries out the practice of emergency medical care within the scope of practice for AEMT determined by the Idaho Emergency Medical Services Physicians Commission (EMSPC), under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physicians Commission;" and (3-29-12)~~
- ~~d. Practices under the supervision of a physician licensed in Idaho. (3-29-12)~~
- ~~02. **Affiliation.** The formal association that exists between an agency and those licensed personnel who appear on the agency's roster, which includes active participation, collaboration, and involvement. Affiliation can be demonstrated by the credentialing of licensed personnel by the agency medical director. (3-29-12)~~
- ~~03. **Agency-EMS.** Any organization required to be licensed under the provisions in IDAPA 16.02.03, "Emergency Medical Services," by the EMS Bureau that operates an air medical service, ambulance service, or nontransport service. (3-29-12)~~
- ~~04. **Board.** The Idaho Board of Health and Welfare. (3-29-12)~~
- ~~05. **Candidate.** Any individual who is requesting an EMS personnel license under Sections 56-1011 through 56-1023, Idaho Code. (3-29-12)~~
- ~~06. **Certificate of Eligibility.** Documentation that an individual is eligible for affiliation with an EMS agency, having satisfied all requirements for an EMS Personnel Licensure except for affiliation, but is not licensed to practice. (3-29-12)~~
- ~~07. **Commission.** The Idaho Emergency Medical Services Physician Commission. (3-29-12)~~
- ~~08. **Competency.** The expected behavior, skill performance and knowledge identified in the description of the profession and the allowable skills and interventions as defined by the scope of practice in the EMS Physicians Commissions Standards Manual incorporated in Section 004 of these rules. (3-29-12)~~
- ~~09. **Department.** The Idaho Department of Health and Welfare. (3-29-12)~~
- ~~10. **Emergency Medical Care.** The care provided to a person suffering from a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the person's health in serious jeopardy, or in causing serious impairments of bodily function or serious dysfunction of any bodily organ or part. (3-29-12)~~
- ~~11. **Emergency Medical Responder (EMR).** An EMR is a person who: (3-29-12)~~
- ~~a. Has met the qualifications for licensure in Sections 56-1011 through 56-1023, Idaho Code, and these rules; (3-29-12)~~
- ~~b. Is licensed by the EMS Bureau under Sections 56-1011 through 56-1023, Idaho Code; (3-29-12)~~
- ~~c. Carries out the practice of emergency medical care within the scope of practice for EMR~~

~~determined by the Idaho Emergency Medical Services Physicians Commission (EMSPC), under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physicians Commission"; and (3-29-12)~~

- ~~d. Practices under the supervision of a physician licensed in Idaho. (3-29-12)~~
- ~~12. **Emergency Medical Services (EMS).** The services utilized in responding to a perceived individual need for immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury. (3-29-12)~~
- ~~13. **EMS Bureau.** The Emergency Medical Services (EMS) Bureau of the Idaho Department of Health and Welfare. (3-29-12)~~
- ~~14. **Emergency Medical Technician (EMT).** An EMT is a person who: (3-29-12)
  - ~~a. Has met the qualifications for licensure in Sections 56-1011 through 56-1023, Idaho Code, and these rules; (3-29-12)~~
  - ~~b. Is licensed by the EMS Bureau under Sections 56-1011 through 56-1023, Idaho Code; (3-29-12)~~
  - ~~e. Carries out the practice of emergency medical care within the scope of practice for EMT determined by the Idaho Emergency Medical Services Physicians Commission (EMSPC), under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physicians Commission"; and (3-29-12)~~~~
- ~~d. Practices under the supervision of a physician licensed in Idaho. (3-29-12)~~
- ~~15. **Licensed Personnel.** Those individuals who are emergency medical responders, emergency medical technicians, advanced emergency medical technicians, and paramedics. (3-29-12)~~
- ~~16. **National Registry of Emergency Medical Technicians (NREMT).** An independent, non-governmental, not for profit organization which prepares validated examinations for the state's use in evaluating candidates for licensure. (3-29-12)~~
- ~~17. **Paramedic.** A paramedic is a person who: (3-29-12)
  - ~~a. Has met the qualifications for licensure in Sections 56-1011 through 56-1023, Idaho Code, and these rules; (3-29-12)~~
  - ~~b. Is licensed by the EMS Bureau under Sections 56-1011 through 56-1023, Idaho Code; (3-29-12)~~
  - ~~e. Carries out the practice of emergency medical care within the scope of practice for paramedic determined by the Idaho Emergency Medical Services Physicians Commission (EMSPC), under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physicians Commission"; and (3-29-12)~~~~
- ~~d. Practices under the supervision of a physician licensed in Idaho. (3-29-12)~~
- ~~18. **Patient.** A sick, injured, incapacitated, or helpless person who is under medical care or treatment. (3-29-12)~~
- ~~19. **Patient Assessment.** The evaluation of a patient by EMS licensed personnel intending to provide treatment or transportation to that patient. (3-29-12)~~
- ~~20. **Patient Care.** The performance of acts or procedures under emergency conditions in responding to a perceived individual need for immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury. (3-29-12)~~
- ~~21. **Skills Proficiency.** The process overseen by an EMS agency medical director to verify competency in psychomotor skills. (3-29-12)~~

~~22. **Supervision.** The medical direction by a licensed physician of activities provided by licensed personnel affiliated with a licensed ambulance, air medical, or nontransport service, including: establishing standing orders and protocols, reviewing performance of licensed personnel, providing instructions for patient care via radio or telephone, and other oversight. (3-29-12)~~

~~23. **State Health Officer.** The Administrator of the Division of Public Health. (3-29-12)~~

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

**16.01.12 - EMERGENCY MEDICAL SERVICES (EMS) -- COMPLAINTS,  
INVESTIGATIONS, AND DISCIPLINARY ACTIONS**

**DOCKET NO. 16-0112-1301**

**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 56-1011 through 56-1023 (Board), and 56-1003 (Director), Idaho Code.

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

<b>Thursday, August 22, 2013 6:00 p.m. - 7:00 p.m.</b>	<b>Monday, August 26, 2013 3:30 p.m. - 4:30 p.m.</b>	<b>Wednesday, August 28, 2013 6:00 p.m. - 7:00 p.m.</b>
<b>Coeur d'Alene Public Library Community Room 702 E. Front Ave. Coeur d'Alene, ID 83814</b>	<b>EMS Bureau Conference Room 650 W. State St. B-25 Boise, ID 83702</b>	<b>Fire Station #2 Training Room 1539 N Hayes Pocatello, ID 83204</b>

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

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

Over the past several years, meetings have been held to negotiate and discuss the rewrite and update of the Emergency Medical Services chapters of rules. The changes being made to this chapter align these rules with new EMS chapters being implemented to update definitions for the ever-changing technology used by emergency medical services providers across the state. The amendments to this rule remove sections no longer needed and reference the new EMS Rule Definitions and EMS Agency Licensing chapters that have been published in this Bulletin under Docket No. 16-0102-1301 and Docket No. 16-0103-1301.

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

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

The Emergency Medical Services (EMS) program is funded through dedicated funds. This rulemaking has no fiscal impact to those funds or to the state general fund. This rulemaking is intended to be cost-neutral.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2013, [Vol. 13-4, page 13 and 14](#), and May 1, 2013, [Vol. 13-5, page 75 and 76](#), Idaho Administrative Bulletins, under Docket No. 16-0203-1301, for "Emergency Medical Services." In addition to the negotiated townhall meetings held around the state, a task force committee, comprised of EMS professionals and interested stakeholder groups, met to develop the rule concepts.

**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 proposed rule, contact Chris Stoker 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 August 28, 2013.

DATED this 1st day of July, 2013.

Tamara Prisock  
DHW - Administrative Rules Unit  
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](mailto:dhwrules@dhw.idaho.gov)

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**THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 16-0112-1301**

**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. (3-29-12)

**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. (3-29-12)

**03. Street Address.** (3-29-12)

**a.** The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (3-29-12)

**b.** The *EMS* Bureau of Emergency Medical Services and Preparedness is located at 650 W. State Street, Suite B-17, Boise, Idaho 83702. (3-29-12)

**04. Telephone.** (3-29-12)

**a.** The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (3-29-12)

**b.** The telephone number for the *EMS* Bureau of Emergency Medical Services and Preparedness is (208) 334-4000. The toll-free, phone number is 1-877-554-3367. (~~3-29-12~~)(    )

**05. Internet Websites.** (3-29-12)

**a.** The Department's internet website is found at <http://www.healthandwelfare.idaho.gov>. (3-29-12)

**b.** The Bureau of Emergency Medical Services *Bureau's and Preparedness* internet website is found at <http://www.idahoems.org>. (~~3-29-12~~)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. DEFINITIONS AND ABBREVIATIONS.**

For the purposes of this chapter, ~~of rules the following terms~~ the definitions in IDAPA 16.01.02, "Emergency Medical Services (EMS) - Rule Definitions" apply. ~~(3-29-12)(\_\_\_\_)~~

~~01. **Affiliating EMS Agency.** The licensed EMS agency, or agencies, under which licensed personnel are authorized to provide patient care. (3-29-12)~~

~~02. **Board.** The Board of Health and Welfare. (3-29-12)~~

~~03. **Certified EMS Instructor.** An individual approved by the EMS Bureau, who has met the requirements in IDAPA 16.02.03, "Emergency Medical Services," to provide EMS education and training. (3-29-12)~~

~~04. **Department.** The Idaho Department of Health and Welfare. (3-29-12)~~

~~05. **Emergency Medical Services (EMS).** The system utilized in responding to a perceived individual need for immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury. (3-29-12)~~

~~06. **EMS Agency.** An organization licensed by the EMS Bureau to provide air medical, ambulance, or non-transport services. (3-29-12)~~

~~07. **EMS Agency Medical Director.** A physician who supervises the medical activities of licensed personnel affiliated with an EMS agency. (3-29-12)~~

~~08. **EMS Bureau.** The Emergency Medical Services (EMS) Bureau of the Idaho Department of Health and Welfare. (3-29-12)~~

~~09. **EMS Physicians Commission (EMSPC).** The Idaho Emergency Medical Services Physician Commission as created under Section 56-1013A, Idaho Code, hereafter referred to as "the Commission." (3-29-12)~~

~~10. **Investigation.** Research of the facts concerning a complaint or issue of non-compliance which may include performing or obtaining interviews, inspections, document review, detailed subject history, phone calls, witness statements, other evidence and collaboration with other jurisdictions of authority. (3-29-12)~~

~~11. **National Registry of Emergency Medical Technicians (NREMT).** An independent, non-governmental, not for profit organization that prepares validated examinations for the state's use in evaluating candidates for licensure. (3-29-12)~~

~~12. **Personnel License or Certificate Holder.** Individuals who possess a valid license or certificate issued by the EMS Bureau. Includes individuals who are Emergency Medical Responders (EMR), Emergency Medical Technicians (EMT), Advanced Emergency Medical Technicians (AEMT), Paramedics, and Certified EMS Instructors. (3-29-12)~~

~~13. **Physician.** In accordance with Section 54-1803, Idaho Code, a person who holds a current active license issued by the State Board of Medicine to practice medicine and surgery, osteopathic medicine and surgery, or osteopathic medicine in Idaho and is in good standing with no restrictions upon, or actions taken against, his license. (3-29-12)~~

(BREAK IN CONTINUITY OF SECTIONS)

**110. REPORTING SUSPECTED VIOLATION.**

**01. Suspected Violations.** Any person ~~who~~ may report a suspected ~~ed~~ er violation of any law or rule

governing EMS, including: ( )

- a.** Sections 56-1011 through 56-1023, Idaho Code; ( )
  - b.** IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission"; ( )
  - c.** IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements"; ( )
  - d.** IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements"; or ( )
  - e.** IDAPA 16.02.03, "Emergency Medical Services;" may report the violation to the EMS Bureau.  
(3-29-12)( )
- 02. Report Violation.** To report a suspected violation, contact the EMS Bureau described in Section 005 of these rules. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**200. EMS BUREAU INITIATES OFFICIAL INVESTIGATION.**

An official investigation will be initiated when the any of the following occurs: (3-29-12)

- 01. Complaint with Allegations.** A complaint with an allegation that, if substantiated, would be in violation of any law or rule governing EMS, including: ( )
- a.** Sections 56-1011 through 56-1023, Idaho Code; ( )
  - b.** IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements"; ( )
  - c.** IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements"; ( )
  - d.** IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions"; ( )
  - e.** IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission"; or ( )
  - f.** IDAPA 16.02.03, "Emergency Medical Services." (3-29-12)( )
- 02. Discovery of Potential Violation of Statute or Administrative Rule.** EMS Bureau staff or other authorities discover a potential violation of any law or rule governing EMS, including: ( )
- a.** Sections 56-1011 through 56-1023, Idaho Code; ( )
  - b.** IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements"; ( )
  - c.** IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements"; ( )

d. IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions"; ( )

e. IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission"; or ( )

f. IDAPA 16.02.03, "Emergency Medical Services." (3-29-12)( )

**201. -- 209. (RESERVED)**

**210. VIOLATIONS THAT MAY RESULT IN ADMINISTRATIVE ACTIONS.**

The EMS Bureau may impose an administrative action, such as denial, revocation, suspension, under conditions that include, but are not limited to, those specified in these rules. Administrative actions may be imposed on any of the following: the holder of a license or certificate, or on an applicant or candidate for an EMS license or certificate. Administrative actions may be imposed on any of the previously mentioned for any action, conduct, or failure to act that is inconsistent with the professionalism, standards, or both, established by statute or rule. (3-29-12)

**01. Violation of Statute or Administrative Rules.** (3-29-12)

**a.** Sections 56-1011 through 56-1023, Idaho Code; (3-29-12)

b. IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements"; ( )

b.c. IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements"; ( )

d. IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions"; ( )

e. IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission"; and ( )

f. IDAPA 16.02.03, "Emergency Medical Services," and this chapter of rules." (3-29-12)( )

**02. Unprofessional Conduct.** Any act that violates professional standards required under IDAPA 16.01.07, "EMS -- Personnel Licensure Requirements." (3-29-12)

**03. Failure to Maintain Standards of Knowledge, Proficiency, or Both.** Failure to maintain standards of knowledge, or proficiency, or both, required under; ( )

**a.** IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensure Requirements"; and ( )

**b.** IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." (3-29-12)( )

**04. Mental Incompetency.** A lawful finding of mental incompetency by a court of competent jurisdiction. (3-29-12)

**05. Impairment of Function.** Performance of duties pursuant to an EMS personnel license while under the influence of alcohol, illegal substance, or legal drug or medication causing impairment of function. (3-29-12)

**06. Denial of Criminal History Clearance.** Any conduct, action, or conviction that does or would result in denial of a criminal history clearance under IDAPA 16.05.06, "Criminal History and Background Checks." (3-29-12)

**07. Discipline, Restriction, Suspension, or Revocation.** Discipline, restriction, suspension, or revocation by any other jurisdiction. (3-29-12)

**08. Danger or Threat to Persons or Property.** Any conduct, condition, or circumstance determined by the EMS Bureau that constitutes a danger or threat to the health, safety, or well-being of persons or property. (3-29-12)

**09. Performing Medical Procedure or Providing Medication that Exceeds the Scope of Practice of the Level of Licensure.** Performing any medical procedure or providing medication that deviates from or exceeds the scope of practice for the corresponding level of licensure established under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." (3-29-12)

**10. Falsification of Applications or Reports.** The submission of fraudulent or false information in any report, application, or documentation to the EMS Bureau. (3-29-12)

**11. Attempting to Obtain a License by Means of Fraud.** Misrepresentation in an application, or documentation, for licensure by means of concealment of a material fact. (3-29-12)

**(BREAK IN CONTINUITY OF SECTIONS)**

**330. ADMINISTRATIVE ACTIONS IMPOSED FOR LICENSURE OR CERTIFICATION.**  
The EMS Bureau may impose the following administrative actions: (3-29-12)

**01. Deny or Refuse to Renew EMS Personnel License or Certification.** The EMS Bureau may deny an EMS personnel license or certification, or refuse to renew an EMS personnel license or certification: (3-29-12)

**a.** When the application for licensure or certification is not complete or the individual does not meet the eligibility requirements provided in Sections 56-1011 through 56-1023, Idaho Code, IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements," IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission," IDAPA 16.02.03, "Emergency Medical Services"; or (3-29-12)

**b.** Pending final outcome of an EMS investigation or criminal proceeding when criminal charges or allegations indicate an imminent danger or threat to the health, safety, or well being of persons or property. (3-29-12)

**c.** For any reason that would justify an administrative action according to Section 210 of these rules. (3-29-12)

**d.** Decisions to deny or refuse to renew an EMS license will be reviewed by the Idaho EMS Physicians Commission at the Commission's next available meeting. (3-29-12)

**02. Deny or Refuse to Renew EMS Agency License.** The EMS Bureau may deny an EMS agency license or refuse to renew a EMS agency license: (3-29-12)

**a.** When the application for licensure is not complete or does not meet the eligibility requirements provided in Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.02.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements"; or (3-29-12)( )

**b.** Pending final outcome of an EMS investigation or criminal proceeding when criminal charges or allegations indicate an imminent danger or threat to the health, safety, or well-being of persons or property. (3-29-12)

**c.** For any reason that would justify an administrative action according to Section 210 of these rules. (3-29-12)

**03. Retain with Probationary Conditions for Personnel License or Certification.** The EMS Bureau may allow an EMS personnel license or certificate holder to retain a license or certificate as agreed to in a negotiated resolution, settlement, or with conditions imposed by the EMS Bureau. Decisions to retain an EMS personnel license with probationary conditions will be reviewed by the Idaho EMS Physician Commission at the Commission's next available meeting. (3-29-12)

**04. Retain with Probationary Conditions for Agency License.** The EMS Bureau may allow an EMS agency to retain a license as agreed to in a negotiated resolution, settlement, or with conditions imposed by the EMS Bureau. (3-29-12)

**05. Suspend EMS Personnel License or Certificate.** The EMS Bureau may suspend an EMS personnel license or certificate for: (3-29-12)

**a.** A period of time up to twelve (12) months, with or without conditions; or (3-29-12)

**b.** Pending final outcome of an EMS investigation or criminal proceeding when criminal charges or allegations indicate an imminent danger or threat to the health, safety, or well-being of persons or property. (3-29-12)

**c.** Decisions to suspend an EMS personnel license will be reviewed by the Idaho EMS Physician Commission at the Commission's next available meeting. (3-29-12)

**06. Revoke EMS Personnel License or Certificate.** The EMS Bureau may revoke an EMS personnel license or certificate when: (3-29-12)

**a.** A peer review team recommends license or certificate revocation; or (3-29-12)

**b.** The license holder is found to no longer be eligible for criminal history clearance per IDAPA 16.05.06, "Criminal History and Background Checks." (3-29-12)

**c.** Decisions to revoke an EMS personnel license will be reviewed by the Idaho EMS Physician Commission at the Commission's next available meeting. (3-29-12)

**07. Revoke EMS Agency License.** The EMS Bureau may revoke an EMS agency license when: (3-29-12)

**a.** A peer review team recommends license revocation; (3-29-12)

**b.** The EMS Bureau will notify the city, fire district, hospital district, ambulance district, dispatch center, and county in which the EMS agency provides emergency prehospital response that the EMS Bureau is considering license revocation. (3-29-12)

**331. -- 339. (RESERVED)**

**340. VIOLATIONS THAT MAY RESULT IN FINES BEING IMPOSED ON EMS AGENCY.**

In addition to administrative license actions provided in Section 56-1022, Idaho Code, and these rules, a fine may be imposed by the EMS Bureau upon recommendation of a peer review team on a licensed EMS agency as a consequence of agency violations. Fines may be imposed for the following violations: (3-29-12)

**01. Operating An Unlicensed EMS Agency.** Operating without a license required in IDAPA 16.021.03, "Emergency Medical Services (~~EMS~~ -- ~~Agency Licensing Requirements~~)," including: ~~(3-29-12)~~( )

**a.** Failure to obtain an initial license; (3-29-12)

**b.** Failure to obtain a license upon change in ownership; or (3-29-12)

**c.** Failure to renew a license and continues to operate as an EMS agency. (3-29-12)

**02. Unlicensed Personnel Providing Patient Care.** Allowing an unlicensed individual to provide patient care without first obtaining an EMS personnel license required in IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements," at the appropriate level for the EMS agency. (3-29-12)

**03. Failure to Respond.** Failure of the EMS agency to respond to a 911 request for service within the agency primary response area in a typical manner of operations when dispatched to a medical illness or injury, under licensure requirements in IDAPA 16.02~~1~~.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements," except when the responder reasonably determines that: ~~(3-29-12)~~( )

- a. There are disaster conditions; (3-29-12)
- b. Scene safety hazards are present or suspected; or (3-29-12)
- c. Law enforcement assistance is necessary to assure scene safety, but has not yet allowed entry to the scene. (3-29-12)

**04. Unauthorized Response by EMS Agency.** Responding to a request for service which deviates from or exceeds those authorized by the EMS agency license requirements in IDAPA 16.02~~1~~.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements." ~~(3-29-12)~~( )

**05. Failure to Allow Inspections.** Failure to allow the EMS Bureau or its representative to inspect the agency facility, equipment, records, and other licensure requirements provided in IDAPA 16.02.03, "Emergency Medical Services." (3-29-12)

**06. Failure To Correct Unacceptable Conditions.** Failure of the EMS agency to correct unacceptable conditions within the time frame provided in a negotiated resolution settlement, or a warning letter issued by the EMS Bureau. Including the following: (3-29-12)

- a. Failure to maintain an EMS vehicle in a safe and sanitary condition; (3-29-12)
- b. Failure to have available minimum EMS Equipment; (3-29-12)
- c. Failure to correct patient or personnel safety hazards; or (3-29-12)
- d. Failure to retain an EMS agency medical director: (3-29-12)

**07. Failure to Report Patient Care Data.** Failure to submit patient care data as required in IDAPA 16.02~~1~~.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements." ~~(3-29-12)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**350. REINSTATEMENT OF EMS LICENSE FOLLOWING REVOCATION.**

An application of any revoked EMS agency or personnel license may be filed with the EMS Bureau no earlier than one (1) year from the date of the license revocation. (3-29-12)

**01. Peer Review for Reinstatement.** The EMS Bureau will conduct a peer review to consider the reinstatement application. (3-29-12)

**02. Recommendation of Peer Review Team.** The peer review team will make a recommendation to the EMS Bureau to accept or reject the application for reinstatement. (3-29-12)

**03. Reinstatement Determination.** The EMS Bureau will accept or reject the reinstatement application based on the peer review team recommendation and other extenuating circumstances. (3-29-12)

**a.** Reinstatement of a revoked EMS personnel license is subject to the lapsed license reinstatement requirements in IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements."  
(3-29-12)

**b.** Reinstatement of a revoked EMS agency license will be subject to an initial agency application requirements in IDAPA 16.021.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements."  
~~(3-29-12)~~( )

# IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

## 16.02.03 - EMERGENCY MEDICAL SERVICES

DOCKET NO. 16-0203-1301

### 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 56-1011 through 56-1023, Idaho Code.

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

Thursday, August 22, 2013 6:00 p.m. - 7:00 p.m.	Monday, August 26, 2013 3:30 p.m. - 4:30 p.m.	Wednesday, August 28, 2013 6:00 p.m. - 7:00 p.m.
Coeur d'Alene Public Library Community Room 702 E. Front Ave. Coeur d'Alene, ID 83814	EMS Bureau Conference Room 650 W. State St. B-25 Boise, ID 83702	Fire Station #2 Training Room 1539 N Hayes Pocatello, ID 83204

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

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

Over the past several years, meetings have been held to negotiate and discuss the rewrite and update of the Emergency Medical Services chapters of rules. Sections in this chapter have been written and implemented in new chapters for Definitions and Agency Licensure published in this Bulletin under Docket 16-0102-1301 and Docket 16-0103-1301. In order to avoid confusion and ensure compliance with the new chapters, the following amendments to the rules:

1. Remove agency licensure requirements and air medical utilization requirements;
2. Remove definitions;
3. Add, remove, and update references to new chapters as needed; and
4. Update required sections to meet requirements of the Office of the Administrative Rules Coordinator rules.

**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:

The Emergency Medical Services (EMS) program is funded through dedicated funds. This rulemaking has no fiscal impact to those funds or to the state general fund. This rulemaking is intended to be cost-neutral.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2013, [Vol. 13-4, page 13 and 14](#), and May 1, 2013, [Vol. 13-5, page 75 and 76](#), Idaho Administrative Bulletins, under Docket No. 16-0203-1301, for "Emergency Medical Services." In addition to the negotiated townhall meetings held around the state, a task force committee, comprised of EMS professionals and interested stakeholder groups, met to develop the rule concepts.

**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 proposed rule, contact Chris Stoker 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 August 28, 2013.

DATED this 9th day of July, 2013.

Tamara Prisock  
DHW - Administrative Rules Unit  
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](mailto:dhwrules@dhw.idaho.gov)

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**THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 16-0203-1301**

**001. TITLE AND SCOPE.**

**01. Title.** The title of these rules is IDAPA 16.02.03, "Emergency Medical Services." (3-29-12)

**02. Scope.** These rules include criteria for education programs, certification of instructors, ~~licensure of ambulance services and nontransport services including required agency personnel, licensure of ambulances and nontransport vehicles~~; establishment of fees for training, inspections, and certifications. (3-29-12)(    )

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, ~~this Bureau has an EMS Standards Manual that contains policy and interpretation of these rules and the documentation of compliance with these rules. Copies of the Standards Manual may be obtained from the EMS Bureau, 650 W. State Street, Suite B-17, Boise, Idaho 83702, P.O. Box 83720, Boise, Idaho 83720-0036~~ the Department may have written statements that pertain to the interpretation of this chapter, or to the documentation of compliance with these rules. (3-29-12)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**004. INCORPORATION BY REFERENCE.**

~~The Board of Health and Welfare has adopted the Minimum Equipment Standards for Licensed EMS Services, 2011 edition, Version 1.0, as its standard on required EMS equipment and hereby incorporates the Equipment Standards by reference. Copies of the Equipment Standards may be obtained from the EMS Bureau, 650 W. State Street, Suite B-17, Boise, Idaho 83702, P.O. Box 83720, Boise, Idaho 83720-0036.~~ There are no documents incorporated by reference into this chapter of rules. (3-29-12)(    )

**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. (4-6-05)

**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. (4-6-05)

**03. Street Address.** (3-29-12)

**a.** The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (4-6-05)

**b.** The ~~EMS~~ Bureau of Emergency Medical Services and Preparedness is located at 650 W. State Street, Suite B-17, Boise, Idaho 83702. ~~(3-29-12)~~(\_\_\_\_)

**04. Telephone.** (3-29-12)

**a.** The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (4-6-05)

**b.** The telephone number for the ~~EMS~~ Bureau of Emergency Medical Services and Preparedness is (208) 334-4000. The toll-free, phone number is 1-877-554-3367. ~~(3-29-12)~~(\_\_\_\_)

**05. Internet Websites.** (4-6-05)

**a.** The Department's internet website is found at <http://www.healthandwelfare.idaho.gov>. (4-6-05)

**b.** The Emergency Medical Services Bureau's internet website is found at <http://www.idahoems.org>. (4-6-05)

**006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS ACT COMPLIANCE AND REQUESTS.**

**01. Confidentiality of Records.** Any disclosure of confidential information used or disclosed in the course of the Department's business is subject to the restrictions in state or federal law, federal regulation, and Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Disclosure of Department Records." (4-6-05)

**02. Public Records Act.** ~~Individuals have a right to review and copy records maintained by the Department, subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code, these rules, and state and federal laws that make records confidential. The Department's Administrative Procedures Section (APS) and designated custodians in Department offices receive and respond to public records requests. The APS can be reached at the mailing address for the Department's business office. Non-identifying or non-confidential information provided to the public by the Department in the ordinary course of business are not required to be reviewed by a public records custodian. Original records must not be removed from the Department by individuals who make public records requests. 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.~~ 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. (4-6-05)(\_\_\_\_)

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

**010. DEFINITIONS AND ABBREVIATIONS.**

For the purposes of ~~these rules, the following terms and abbreviations will be used, as defined below:~~ this chapter, the definitions in IDAPA 16.01.02, "Emergency Medical Services (EMS) -- Rule Definitions" apply. ~~(7-1-80)~~(\_\_\_\_)

~~**01. Advanced Emergency Medical Technician (AEMT).** A person who has met the qualifications for AEMT licensure defined in Section 56-1012, Idaho Code, and in IDAPA 16.01.07, "Emergency Medical Services-- Personnel Licensing Requirements."~~ **01. Advanced Emergency Medical Technician (AEMT).** A person who has met the qualifications for AEMT licensure defined in Section 56-1012, Idaho Code, and in IDAPA 16.01.07, "Emergency Medical Services-- Personnel Licensing Requirements." (3-29-12)

~~**02. Advanced Life Support (ALS).** The provision of medical care, medication administration and treatment with medical devices that correspond to the knowledge and skill objectives in the Paramedic curriculum~~

~~currently approved by the State Health Officer in accordance with Subsection 201.04 of these rules and within the scope of practice defined in IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission," by persons licensed as Paramedics by the EMS Bureau. (3-29-12)~~

~~**03. Advertise.** Communication of information to the public, institutions, or to any person concerned, by any oral, written, or graphic means including handbills, newspapers, television, radio, telephone directories, and billboards. (4-5-00)~~

~~**04. Agency.** Any organization required to be licensed by the EMS Bureau that operates an air medical service, ambulance service, or nontransport service. (3-29-12)~~

~~**05. Air Ambulance.** Any privately or publicly owned fixed wing aircraft or rotary wing aircraft used for, or intended to be used for, the transportation of persons experiencing physiological or psychological illness or injury who may need medical attention during transport. This may include dual or multipurpose vehicles that comply with Sections 56-1011 through 56-1023, Idaho Code. (3-29-12)~~

~~**06. Air Medical Response.** The deployment of an aircraft licensed as an air ambulance to an emergency scene intended for the purpose of patient treatment and transportation. (3-29-12)~~

~~**07. Air Medical Service.** An agency required to be licensed by the EMS Bureau that responds to requests for patient care and transportation from hospitals and EMS agencies using a fixed wing aircraft or rotary wing aircraft. (3-29-12)~~

~~**08. Ambulance.** Any privately or publicly owned motor vehicle or nautical vessel, used for, or intended to be used for, the transportation of sick or injured persons who may need medical attention during transport. This may include dual or multipurpose vehicles that comply with Sections 56-1011 through 56-1023, Idaho Code. (3-29-12)~~

~~**09. Ambulance Based Clinicians.** Licensed Professional Nurses, Advanced Practice Professional Nurses, and Physician Assistants with current licenses from the Board of Nursing or the Board of Medicine, who are personnel provided by licensed EMS services. (4-5-00)~~

~~**10. Ambulance Service.** An agency required to be licensed by the EMS Bureau operated with the intent to provide personnel and equipment for medical treatment at an emergency scene, during transportation, or during transfer of persons experiencing physiological or psychological illness or injury who may need medical attention during transport. (3-29-12)~~

~~**11. Applicant.** Any organization that is requesting an agency license under these rules and includes the following: (3-29-12)~~

~~**a.** An organization seeking a new license; (3-29-12)~~

~~**b.** An existing agency that intends to change the level of licensed personnel it utilizes; (3-29-12)~~

~~**c.** An existing agency that intends to change its geographic coverage area, except by agency annexation; (3-29-12)~~

~~**d.** An existing nontransport service that intends to provide ambulance service; and (3-29-12)~~

~~**e.** An existing ambulance service that intends to discontinue transport and become a nontransport service. (3-29-12)~~

~~**12. Board.** The Idaho Board of Health and Welfare. (3-29-12)~~

~~**13. Certification.** A credential issued to an individual by the EMS Bureau for a specified period of time indicating that minimum standards have been met. (3-29-12)~~

- ~~14. **Critical Care Transfer (CCT).** The transportation of a patient with continuous care, monitoring, medication or procedures requiring knowledge or skills not contained within the Paramedic curriculum approved by the State Health Officer. Interventions provided by Paramedics are governed by the scope of practice defined in IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physicians Commission." (3-29-12)~~
- ~~15. **Commission.** The Idaho Emergency Medical Services Physician Commission (EMSPC). (3-29-12)~~
- ~~16. **Department.** The Idaho Department of Health and Welfare. (3-29-12)~~
- ~~17. **Director.** The Director of the Idaho Department of Health and Welfare or his designee. (3-29-12)~~
- ~~18. **Division.** The Idaho Division of Public Health, Department of Health and Welfare. (3-29-12)~~
- ~~19. **Emergency.** A medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the person's health in serious jeopardy, or in causing serious impairments of bodily function or serious dysfunction of any bodily organ or part. (4-5-00)~~
- ~~20. **Emergency Medical Responder (EMR).** A person who has met the qualifications for EMR licensure defined in Section 56-1012, Idaho Code, and in IDAPA 16.01.07, "Emergency Medical Services Personnel Licensing Requirements." (3-29-12)~~
- ~~21. **Emergency Medical Services (EMS).** The system utilized in responding to a perceived individual need for immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury. (3-29-12)~~
- ~~22. **Emergency Medical Technician (EMT).** A person who has met the qualifications for EMT licensure defined in Section 56-1012, Idaho Code, and in IDAPA 16.01.07, "Emergency Medical Services Personnel Licensing Requirements." (3-29-12)~~
- ~~23. **Emergency Scene.** Any setting (including standbys) outside of a hospital, with the exception of the inter-facility transfer, in which the provision of EMS may take place. (4-11-06)~~
- ~~24. **EMS Bureau.** The Emergency Medical Services (EMS) Bureau of the Idaho Department of Health and Welfare. (11-19-76)~~
- ~~25. **EMS Standards Manual.** A manual published by the EMS Bureau detailing policy information including EMS education, certification, licensure, and data collection. (3-29-12)~~
- ~~26. **Glasgow Coma Score (GCS).** A scale used to determine a patient's level of consciousness. It is a rating from three (3) to fifteen (15) of the patient's ability to open his eyes, respond verbally, and move normally. The GCS is used primarily during the examination of patients with trauma or stroke. (4-11-06)~~
- ~~27. **Ground Transport Time.** The total elapsed time calculated from departure of the ambulance from the scene to arrival of the ambulance at the patient destination. (4-11-06)~~
- ~~28. **Licensed EMS Services.** Air medical services, ambulance services, and nontransport services licensed by the EMS Bureau to function in Idaho. (3-29-12)~~
- ~~29. **Licensed Personnel.** Individuals licensed by the EMS Bureau who are Emergency Medical Responders (EMR), Emergency Medical Technicians (EMT), Advanced Emergency Medical Technicians (AEMT), and Paramedics. (3-29-12)~~
- ~~30. **Local Incident Management System.** The local system of interagency communications, command, and control established to manage emergencies or demonstrate compliance with the National Incident Management System. (4-11-06)~~

- ~~31. **National Emergency Medical Services Information System (NEMSIS) Technical Assistance Center.** An organization that validates software for compliance with the EMS data set defined by the United States Department of Transportation National Highway Traffic Safety Administration. (3-29-12)~~
- ~~32. **National Registry of Emergency Medical Technicians (NREMT).** An independent, non-governmental, not for profit organization which prepares validated examinations for the state's use in evaluating candidates for licensure. (3-29-12)~~
- ~~33. **Nontransport Service.** An agency required to be licensed by the EMS Bureau that is operated with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but that is not intended to be the service that will actually transport sick or injured persons. (3-29-12)~~
- ~~34. **Nontransport Vehicle.** Any vehicle that is operated by an agency with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but that is not intended as the vehicle that will actually transport sick or injured persons. (3-29-12)~~
- ~~35. **Out of Hospital.** Any setting outside of a hospital, including inter facility transfers, in which the provision of EMS may take place. (4-5-00)~~
- ~~36. **Paramedic.** A person who has met the qualifications for paramedic licensure defined in Section 56-1012, Idaho Code, and in IDAPA 16.01.07, "Emergency Medical Services—Personnel Licensing Requirements." (3-29-12)~~
- ~~37. **Patient Assessment.** The evaluation of a patient by EMS licensed personnel intending to provide treatment or transportation to that patient. (3-29-12)~~
- ~~38. **Patient Care.** The performance of acts or procedures under emergency conditions in responding to a perceived individual need for immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury. (3-29-12)~~
- ~~39. **Physician.** In accordance with Section 54-1803, Idaho Code, a person who holds a current active license issued by the State Board of Medicine to practice medicine and surgery, osteopathic medicine and surgery, or osteopathic medicine in Idaho and is in good standing with no restrictions upon, or actions taken against, his license. (3-29-12)~~
- ~~40. **Pre-Hospital.** Any setting, including standbys, outside of a hospital, with the exception of the inter-facility transfer, in which the provision of EMS may take place. (3-29-12)~~
- ~~41. **State Health Officer.** The Administrator of the Division of Public Health. (3-29-12)~~
- ~~42. **Supervision.** The medical direction by a licensed physician of activities provided by licensed personnel affiliated with a licensed ambulance, air medical, or nontransport service, including: (3-29-12)~~
- ~~a. Establishing standing orders and protocols; (3-29-12)~~
  - ~~b. Reviewing performance of licensed personnel; (3-29-12)~~
  - ~~c. Providing instructions for patient care via radio or telephone; and (3-29-12)~~
  - ~~d. Other oversight. (3-29-12)~~
- ~~43. **Transfer.** The transportation of a patient from one (1) medical care facility to another. (3-29-12)~~
011. -- 074~~5~~. (RESERVED)
- ~~075. **INVESTIGATION OF COMPLAINTS FOR EMS LICENSING VIOLATIONS.**~~

~~Investigation of complaints and disciplinary actions for EMS agency licensing are provided under IDAPA 16.01.12, "Emergency Medical Services (EMS) - Complaints, Investigations, and Disciplinary Actions." (3-29-12)~~

(BREAK IN CONTINUITY OF SECTIONS)

**204. INSPECTION.**

Representatives of the EMS Bureau are authorized to enter the training facility at reasonable times, for the purpose of assuring that the training program meets or exceeds the provisions of these rules ~~and the EMS Standards Manual.~~ (7-1-97)(    )

(BREAK IN CONTINUITY OF SECTIONS)

**300. ~~AMBULANCE SERVICE STANDARDS~~ **REQUIRED RECORDS.****

~~To qualify for licensing as an ambulance service under Section 56-1016, Idaho Code, the applicant must demonstrate compliance with the following: **The following records must be maintained by EMS Agencies as required in IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements.** (4-6-05)(    )~~

~~**01- Ambulance Vehicles.** All ambulance and air ambulance vehicles must meet one (1) of the following conditions to be licensed: (3-29-12)~~

~~**a-** The vehicle meets or exceeds any federal, industry, or trade specifications or standards for ambulance and air ambulance vehicles as identified by the applicant. (3-29-12)~~

~~**b-** The vehicle has been uniquely configured or modified to meet specialized needs and has been inspected and approved by the EMS Bureau. (7-1-97)~~

~~**02- Required Ambulance and Air Ambulance Equipment.** Each ambulance must be equipped with the following: (3-29-12)~~

~~**a-** Medical care supplies and devices as specified in the Minimum Equipment Standards for Licensed EMS Services. Exceptions to the minimum equipment requirements may be granted by the EMS Bureau upon inspection, when the circumstances and available alternatives assure that appropriate patient care will be provided for all foreseeable incidents. (7-1-97)~~

~~**b-** Mobile radio on 155.340 MHZ and 155.280 MHZ frequencies with encoding capabilities to allow access to the Idaho EMS radio communications system; and (11-19-76)~~

~~**c-** Safety equipment and personal protective supplies for licensed personnel and other vehicle occupants as specified in the Minimum Equipment Standards, including materials to provide for body substance isolation and protection from exposure to communicable diseases and pathogens under Section 56-1017, Idaho Code. (3-29-12)~~

~~**03- Ambulance Personnel.** The ambulance service must demonstrate that a sufficient number of personnel are affiliated with the service to accomplish a twenty four (24) hour a day, seven (7) day a week response capability in accordance with Section 56-1016, Idaho Code. The service must describe its anticipated staffing patterns per vehicle and shift on the application supplied by the EMS Bureau. The annual inspection by the EMS Bureau must include a review of the ambulance service personnel staffing configuration. (4-6-05)~~

**041. Records to be Maintained by Ambulance and Air Medical Agencies.** The ambulance ~~service~~ **agencies** must maintain records of each ambulance and air ambulance response and submit them to the EMS Bureau at least quarterly in a form approved by the EMS Bureau. These records must include at least the following information: (3-29-12)(    )

- a. Name of ambulance service; (3-29-12)
- b. Date of response; (3-29-12)
- c. Time call received; (3-29-12)
- d. Time en route to scene; (3-29-12)
- e. Time arrival at scene; (3-29-12)
- f. Time service departed scene; (3-29-12)
- g. Time arrival at hospital; (3-29-12)
- h. Location of incident; (3-29-12)
- i. Description of illness/injury; (3-29-12)
- j. Description of patient management; (3-29-12)
- k. Patient destination; (3-29-12)
- l. Ambulance unit identification; (3-29-12)
- m. Identification and licensure level of each ambulance crew member on the response; and (3-29-12)
- n. Response outcome. (7-1-97)

~~**05- Communications.** Ambulance service dispatch must be in accordance with Section 56-1016, Idaho Code. The application for licensure must describe the radio, telephonic, or other electronic means by which patient care instructions from an authorized medical source will be obtained. The annual inspection by the EMS Bureau will include a review of the ambulance service dispatch and communications configuration. (4-6-05)~~

~~**06- Medical Control Plan.** The ambulance service must describe the extent and type of supervision by a licensed physician that is available to licensed personnel. The annual inspection by the EMS Bureau will include a review of the ambulance service medical control configuration. (3-29-12)~~

~~**07- Medical Treatment Protocols.** The ambulance service must submit a complete copy of the medical treatment protocols and written standing orders under which its licensed personnel will function with the application for licensure. (3-29-12)~~

~~**08- Training Facility Access.** The applicant must describe the arrangements which will provide access to clinical and didactic training locations, in the initial application for service licensure. (4-6-05)~~

~~**09- Geographic Coverage Description.** Each application for initial licensure must contain a specific description of the Idaho jurisdiction(s) that the ambulance service will serve using known geopolitical boundaries or geographic coordinates. (4-6-05)~~

~~**10- Required Application.** The applicant must submit a completed application to the EMS Bureau to be considered for licensure. The most current standardized form will be available from the EMS Bureau. An additional application may be required prior to subsequent annual inspection by the EMS Bureau. (4-6-05)~~

~~**11- Inspection.** Representatives of the EMS Bureau are authorized to enter the applicant's facility or other location as designated by the applicant at reasonable times, for the purpose of inspecting the ambulance services' vehicle(s) and equipment, ambulance and air ambulance response records, and other necessary items to determine eligibility for licensing by the state of Idaho in relation to the minimum standards in Section 56-1016, Idaho Code. (3-29-12)~~

~~12. License. Ambulance services must be licensed on an annual basis by the EMS Bureau. (7-1-97)~~

~~301. NONTRANSPORT SERVICE STANDARDS.~~

~~In order to qualify for licensing as a nontransport service under Section 56-1016, Idaho Code, the applicant must demonstrate compliance with the following: (4-6-05)~~

~~01. Vehicles. All vehicles must meet one (1) of the following conditions to be licensed: (7-1-97)~~

~~a. The vehicle meets or exceeds standards for that type vehicle, including federal, industry, or trade specifications, as identified by the applicant and recognized and approved by the EMS Bureau. (7-1-97)~~

~~b. The vehicle has been uniquely configured or modified to meet specialized needs and has been inspected and approved by the EMS Bureau. (7-1-97)~~

~~02. Required Equipment for Nontransport Services. Licensed personnel must have access to required equipment. The equipment must be stored on a dedicated response vehicle, or in the possession of licensed personnel. The application for licensure as a nontransport service must include a description of the following: (3-29-12)~~

~~a. Medical care supplies and devices as specified in the Minimum Equipment Standards for Licensed EMS Services. Exceptions to the minimum equipment requirements may be granted by the EMS Bureau upon inspection, when the circumstances and available alternatives assure that appropriate patient care will be provided for all foreseeable incidents. (7-1-97)~~

~~b. Mobile or portable radio(s) on 155.340 MHz and 155.280 MHz frequencies with encoding capabilities to allow access to the Idaho EMS radio communications system; and (7-1-97)~~

~~c. Safety equipment and personal protective supplies for licensed personnel and other vehicle occupants as specified in the Minimum Equipment Standards for Licensed EMS Services, including materials to provide for body substance isolation and protection from exposure to communicable diseases under Section 56-1023, Idaho Code. (3-29-12)~~

~~03. Nontransport Service Personnel. The nontransport service must demonstrate that a sufficient number of licensed personnel are affiliated with the service to accomplish a twenty-four (24) hour a day, seven (7) day a week response capability. Exceptions to this requirement may be granted by the EMS Bureau when strict compliance with the requirement would cause undue hardship on the community being served, or would result in abandonment of the service. The annual inspection by the EMS Bureau will include a review of the personnel staffing configuration. (3-29-12)~~

**042. Records to Be Maintained by Non-Transport Agencies.** The non-transport service agencies must maintain records of each EMS response in a form approved by the EMS Bureau. All applicant non-transport services who submit an application to the EMS Bureau after July 1, 2009, must submit records of each EMS response to the EMS Bureau at least quarterly in a form approved by the EMS Bureau. These records must include at least the following information: (3-29-12)( )

- a. Identification of nontransport service; (3-29-12)
- b. Date of response; (3-29-12)
- c. Time call received; (3-29-12)
- d. Time en route to scene; (3-29-12)
- e. Time arrival at scene; (3-29-12)
- f. Time service departed scene; (3-29-12)

- g.** Location of incident; (3-29-12)
- h.** Description of illness/injury; (3-29-12)
- i.** Description of patient management; (3-29-12)
- j.** Patient destination; (3-29-12)
- k.** Identification and licensure level of nontransport service personnel on response; and (3-29-12)
- l.** Response outcome. (7-1-97)

~~**05. Communications.** The application for licensure must describe the radio, telephonic, or other electronic means by which patient care instructions from an authorized medical source will be obtained. The annual inspection by the EMS Bureau will include a review of the nontransport service dispatch and communications configuration. (4-6-05)~~

~~**06. Medical Control Plan.** The nontransport service must describe the extent and type of supervision by a licensed physician that is available to licensed personnel. The annual inspection by the EMS Bureau will include a review of the nontransport service medical control configuration. (3-29-12)~~

~~**07. Medical Treatment Protocols.** The nontransport service must submit a complete copy of the medical treatment protocols and written standing orders under which its licensed personnel will function with the initial application for licensure. (3-29-12)~~

~~**08. Training Facility Access.** The applicant must describe the arrangements which will provide access to clinical and didactic training locations in the initial application for service licensure. (4-6-05)~~

~~**09. Geographic Coverage Description.** Each application for initial licensure must contain a specific description of the Idaho jurisdiction(s) that the nontransport service will serve using known geopolitical boundaries or geographic coordinates. (4-6-05)~~

~~**10. Required Application.** The applicant must submit a completed application to the EMS Bureau to be considered for licensure. The most current standardized form is available from the EMS Bureau. An additional application may be required prior to subsequent annual inspection by the EMS Bureau. (4-6-05)~~

~~**11. Inspection.** Representatives of the Department are authorized to enter the applicant's facility or other location as designated by the applicant at reasonable times, for the purpose of inspecting the nontransport services' vehicle(s) and equipment, nontransport response records, and other necessary items to determine eligibility for licensing by the state of Idaho. (7-1-97)~~

~~**12. License.** Nontransport services must be licensed on an annual basis by the EMS Bureau. (7-1-97)~~

~~**302.—319. (RESERVED)**~~

~~**320. DESIGNATION OF CLINICAL CAPABILITY.**~~

~~All ambulance and nontransport licenses issued by the EMS Bureau must indicate the clinical level of service which can be provided by the ambulance or nontransport service after verification of compliance with Section 300 or Section 301 of these rules. Agencies which provide licensed personnel at the EMR or EMT level will be designated as Basic Life Support services. Agencies which provide licensed personnel at the AEMT level will be designated as Intermediate Life Support services. Agencies which provide licensed personnel at or above the paramedic level will be designated as Advanced Life Support services under Section 340 of these rules. Licensed EMS Services may function at one (1) or more ALS levels corresponding to the designation issued by the EMS Bureau as a result of the application and inspection process required in Sections 300 and 301 of these rules. (3-29-12)~~

~~**321.—324. (RESERVED)**~~

~~325. PRE-HOSPITAL ADVANCED LIFE SUPPORT (ALS) STANDARDS.~~

~~Pre-hospital ALS designation of an agency by the EMS Bureau is required for any agency which will advertise or supply clinical personnel and equipment capabilities which are within the scope of practice established for ALS under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission," for the purposes of responding to emergencies in any 911 service area, standby, or other area on an emergency basis. Designation is for the same duration as the license issued to the EMS agency. An agency which has demonstrated compliance with Section 300 or Section 301 of these rules may qualify for Pre-hospital ALS designation if the following criteria are met: (3-29-12)~~

~~**01. Personnel.** The agency must have a sufficient number of Paramedics to assure availability of such personnel corresponding to the anticipated call volume of the agency. The agency is specifically prohibited from utilizing other licensed health care providers for pre-hospital and emergency responses to requests for EMS unless they are accompanied by or cross-trained and licensed as a Paramedic. (3-29-12)~~

~~**a.** Paramedic personnel must hold a current paramedic license issued by the EMS Bureau under IDAPA 16.01.07, "Emergency Medical Services (EMS) — Personnel Licensing Requirements." (3-29-12)~~

~~**b.** An agency may use Ambulance-Based Clinicians who function with a Paramedic or are cross-trained and licensed as a Paramedic. The agency must verify that all Ambulance-Based Clinicians have successfully completed a formal education program of pre-hospital medical care which meets or exceeds the objectives of the curriculum approved by the State Health Officer. The agency must assure that any Ambulance-Based Clinicians meet additional requirements of the corresponding licensing board. (3-29-12)~~

~~**c.** Personnel must initiate advanced life support as authorized by the physician designated as the Medical Director of the agency, and other physicians providing on-line medical supervision as specified in IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." (3-29-12)~~

~~**02. Required Documentation.** The employment status and ongoing proficiency maintenance of the licensed personnel and Ambulance-Based Clinicians associated with the agency must be documented on a periodic basis to the EMS Bureau. (3-29-12)~~

~~**a.** The agency must submit a roster of all licensed personnel and Ambulance-Based Clinicians with the application for licensure. Any change in the roster due to attrition or hiring must be documented to the EMS Bureau in writing within sixty (60) calendar days of the change. (3-29-12)~~

~~**b.** The agency must maintain documentation of continuing education, refresher courses, and proficiency assurance of all licensed personnel and Ambulance-Based Clinicians in accordance with the EMS Standards Manual in effect at the time of designation and any EMS Standards Manual which takes effect during the designation period. (3-29-12)~~

~~**03. Required Equipment.** The agency vehicle(s) must be equipped with the Minimum Required Equipment listed in the ALS section of the Minimum Equipment Standards incorporated in these rules. The agency must disclose all additional medical equipment routinely carried on the agency vehicle(s) not included in the Minimum Equipment Standards in the application provided by the EMS Bureau. (4-6-05)~~

~~**04. Administrative License Action.** A pre-hospital ALS designation may be revoked under IDAPA 16.01.12, "Emergency Medical Services (EMS) — Complaints, Investigations, and Disciplinary Actions." The agency is specifically prohibited from advertising as or responding to requests for critical care transfer service unless the agency also holds a Critical Care Transfer Service designation under Section 335 of these rules. (3-29-12)~~

~~326.—329. (RESERVED)~~

~~330. ADVANCED LIFE SUPPORT (ALS) TRANSFER STANDARDS.~~

~~ALS Transfer designation of an agency by the EMS Bureau is required for any agency which will advertise or supply clinical personnel and equipment capabilities which are within the scope of practice established for ALS under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission," for the purposes of providing medical care and transportation between medical care facilities. Designation is for the same duration as~~

~~the license issued to the EMS agency. An agency which has demonstrated compliance with Section 300 or Section 301 of these rules may qualify for ALS Transfer designation if the following criteria are met:~~ (3-29-12)

~~**01. Personnel.** The agency must have a sufficient number of personnel to assure availability corresponding to the anticipated call volume of the agency. (4-5-00)~~

~~**a.** Paramedic personnel must hold a current paramedic license issued by the EMS Bureau under IDAPA 16.01.07, "Emergency Medical Services (EMS) — Personnel Licensing Requirements." (3-29-12)~~

~~**b.** An agency which will advertise or provide ALS transfer of patients may use Ambulance-Based Clinicians as the medical care provider for those patients. The agency must verify that all Ambulance-Based Clinicians have successfully completed a formal education program of out-of-hospital medical care which meets or exceeds the objectives of the curriculum approved by the State Health Officer. The agency must assure that any Ambulance-Based Clinicians meet additional requirements of the corresponding licensing board. (3-29-12)~~

~~**e.** Personnel will initiate advanced life support as authorized by the physician designated as the Medical Director of the agency, and other physicians providing on line medical supervision as specified in IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." (3-29-12)~~

~~**02. Required Documentation.** The employment status and ongoing proficiency maintenance of the licensed personnel and Ambulance-Based Clinicians associated with the agency must be documented on a periodic basis to the EMS Bureau. (3-29-12)~~

~~**a.** The agency must submit a roster of all licensed personnel and Ambulance-Based Clinicians with the application for licensure. Any change in the roster due to attrition or hiring must be documented to the EMS Bureau in writing within sixty (60) calendar days of the change. (3-29-12)~~

~~**b.** The agency must maintain documentation of continuing education, refresher courses, and proficiency assurance of all licensed personnel and Ambulance-Based Clinicians in accordance with the EMS Standards Manual in effect at the time of designation and any EMS Standards Manual which takes effect during the designation period. (3-29-12)~~

~~**03. Required Equipment.** The agency vehicle(s) must be equipped with the Minimum Required Equipment listed in the ALS section of the Minimum Equipment Standards incorporated in these rules. The agency must disclose all additional medical equipment routinely carried on the agency vehicle(s) not included in the Minimum Equipment Standards in the application provided by the EMS Bureau. (4-6-05)~~

~~**04. Administrative License Action.** An ALS Transfer designation may be revoked under IDAPA 16.01.12, "Emergency Medical Services (EMS) — Complaints, Investigations, and Disciplinary Actions." The agency is specifically prohibited from advertising or responding to pre-hospital and emergency requests for ALS unless the agency also holds a pre-hospital ALS designation in accordance with Section 325 of these rules. The agency is specifically prohibited from advertising as or responding to requests for critical care transfer service unless the agency also holds a Critical Care Transfer (CCT) Service designation in accordance with Section 335 of these rules. (3-29-12)~~

~~331.—334. (RESERVED)~~

~~**335. CRITICAL CARE TRANSFER (CCT) SERVICE STANDARDS.**~~

~~Critical Care Transfer (CCT) Service designation of an agency by the EMS Bureau is required for any agency which will advertise or supply clinical personnel and equipment capabilities requiring knowledge or skills not contained within the Paramedic curriculum approved by the State Health Officer. Designation will be for the same duration as the license issued to the EMS agency. An agency which has demonstrated compliance with Section 300 of these rules may qualify for Critical Care Transfer (CCT) Service designation if the following criteria are met: (3-29-12)~~

~~**01. Personnel.** The agency must have a sufficient number of personnel to assure availability corresponding to the anticipated call volume of the agency. (4-5-00)~~

~~a. Paramedic personnel must hold a current paramedic license issued by the EMS Bureau under IDAPA 16.01.07, "Emergency Medical Services (EMS) Personnel Licensing Requirements." Paramedics who will be the primary or the only care provider during critical care transfers must have successfully completed a formal education program in critical care transport which meets or exceeds the objectives of the curriculum approved by the State Health Officer. (3-29-12)~~

~~b. An agency which will advertise or provide CCT transfer of patients may use Ambulance-Based Clinicians as the medical care provider for those patients. The agency must verify that all Ambulance-Based Clinicians have successfully completed a formal education program of out-of-hospital medical care which meets or exceeds the objectives of the curriculum approved by the State Health Officer. The agency must assure that any Ambulance-Based Clinicians meet additional requirements of the corresponding licensing board. (3-29-12)~~

~~e. Personnel will initiate critical care as authorized by the physician designated as the Medical Director of the agency, and other physicians providing on line medical supervision as specified in IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." (3-29-12)~~

~~02. Required Documentation. The employment status and ongoing proficiency maintenance of the licensed personnel and Ambulance-Based Clinicians associated with the agency must be documented on a periodic basis to the EMS Bureau. (3-29-12)~~

~~a. The agency must submit a roster of all licensed personnel and Ambulance-Based Clinicians with the application for licensure. Any change in the roster due to attrition or hiring must be documented to the EMS Bureau in writing within sixty (60) calendar days of the change. (3-29-12)~~

~~b. The agency must maintain documentation of continuing education, refresher courses, and proficiency assurance of all licensed personnel and Ambulance-Based Clinicians in accordance with the EMS Standards Manual in effect at the time of designation and any EMS Standards Manual which takes effect during the designation period. (3-29-12)~~

~~03. Required Equipment. The agency vehicle(s) must be equipped with the Minimum Required Equipment listed in the ALS section of the Minimum Equipment Standards incorporated in these rules. The agency must disclose all additional medical equipment routinely carried on the agency vehicle(s) not included in the Minimum Equipment Standards in the application provided by the EMS Bureau. (4-6-05)~~

~~04. Administrative License Action. A Critical Care Transfer Service designation may be revoked under IDAPA 16.01.12, "Emergency Medical Services (EMS) Complaints, Investigations, and Disciplinary Actions." The agency is specifically prohibited from advertising or responding to pre-hospital and emergency requests for ALS unless the agency also holds pre-hospital ALS designation under Section 325 of these rules. (3-29-12)~~

~~336.—339. (RESERVED)~~

~~340. ADVANCED LIFE SUPPORT (ALS) DESIGNATION CATEGORIES.~~

~~Licensed EMS services are permitted to hold any combination of designations achieved by meeting the standards in Sections 325, 330, and 335 of these rules. Licenses or the designations associated with them can not be assigned or transferred. A standard system of designation must be used by the EMS Bureau to define which combination of clinical capabilities has been demonstrated by each ALS licensed EMS service. (4-6-05)~~

~~01. An ALS Level I. An ALS Level I license must be issued by the EMS Bureau to any applicant who meets the requirements in Sections 325, 330 and 335 of these rules. (4-6-05)~~

~~02. An ALS Level II. An ALS Level II license must be issued by the EMS Bureau to any applicant who meets the requirements in Sections 325 and 330 of these rules. (4-6-05)~~

~~03. An ALS Level III. An ALS Level III license must be issued by the EMS Bureau to any applicant who meets the requirements in Sections 330 and 335 of these rules. (4-6-05)~~

~~04. An ALS Level IV. An ALS Level IV license must be issued by the EMS Bureau to any applicant who meets the requirements in Section 330 of these rules. (4-6-05)~~

~~05. An ALS Level V. An ALS Level V license must be issued by the EMS Bureau to any applicant who meets the requirements in Section 325 of these rules. (4-6-05)~~

~~340~~1. -- 399. (RESERVED)

**400. ADVANCE DO NOT RESUSCITATE (DNR) DIRECTIVES.**

**01. Protocols.** (11-10-94)

a. The EMS Advisory Committee described in IDAPA 16.01.01, "Emergency Medical Services (EMS) -- Advisory Committee." will establish standard protocols for EMS personnel to respond to advance DNR directives. (11-10-94)( )

b. The protocol will be reviewed at least annually by the EMS Advisory Committee to determine if changes in protocol should be made to reflect technological advances. (11-10-94)

c. The Department will notify Idaho EMS personnel of DNR protocols and any subsequent changes. (3-29-12)

**02. Do Not Resuscitate (DNR) Order.** (3-29-12)

a. A standard DNR form will be made available to physicians by the Department or its designee. (11-10-94)

b. One (1) copy will be maintained in the patient's file and one (1) copy will be kept by the patient. (11-10-94)

**03. Do Not Resuscitate (DNR) Identification.** (3-29-12)

a. Only a physician signed DNR order or a Department approved bracelet or necklace will be honored by EMS personnel. (11-10-94)

b. The bracelet or necklace will have an easily identifiable logo that solely represents a DNR code. (11-10-94)

c. The Department will advise EMS personnel of what constitutes an acceptable identification. (11-10-94)

d. No DNR identification may be issued without a valid DNR order in place. (11-10-94)

e. Only vendors authorized by the Department may sell or distribute DNR identifications. (11-10-94)

~~401. -- 404. (RESERVED)~~

~~405. **STANDARDS FOR THE APPROPRIATE USE OF AIR MEDICAL EDUCATION AND TRAINING AGENCIES BY LICENSED EMS PERSONNEL AT EMERGENCY SCENES.**~~

~~01. **Who Establishes Education Curricula and Continuing Education Requirements for Air Medical Criteria?** The EMS Bureau will incorporate education and training regarding the air medical criteria established in Subsection 4205.02 of these rules into initial training curricula and required continuing education of licensed EMS personnel. (3-29-12)( )~~

~~02. **Who Must Establish Written Criteria Guiding Decisions to Request an Air Medical Response?** Each licensed EMS service must establish written criteria, approved by the EMS service medical director, to guide~~

~~the decisions of the service's licensed EMS personnel to request an air medical response to an emergency scene. The criteria will include patient conditions found in Section 415 of these rules. (3-29-12)~~

~~03. **What Written Criteria is Required for EMS Service Licensure?** Written criteria guiding decisions to request an air medical response will be required for all initial and renewal applications for EMS service licensure for licenses effective on November 1, 2006, or later. (4-11-06)~~

~~04. **Who Is Responsible for Requesting an Air Medical Response?** Licensed EMS personnel en route to or at the emergency scene have the primary responsibility and authority to request the response of air medical services using the local incident management system and licensed EMS service written criteria. (3-29-12)~~

~~05. **When Can Licensed EMS Personnel Cancel an Air Medical Response?** Licensed EMS personnel must complete a patient assessment prior to their cancellation of an air medical response. (3-29-12)~~

~~06. **Who May Establish Criteria for Simultaneous Dispatch?** The licensed EMS service may establish criteria for simultaneous dispatch for air and ground medical response. Air medical services will not respond to an emergency scene unless requested. (4-11-06)~~

~~07. **Who Is Responsible for Selecting an Appropriate Air Medical Service?** Selection of an appropriate air medical service is the responsibility of the licensed EMS service. (4-11-06)~~

~~a. The licensed EMS service, through written policy, will establish a process of air medical selection. (4-11-06)~~

~~b. The written policy must direct EMS personnel to honor a patient request for a specific air medical service when the circumstances will not jeopardize patient safety or delay patient care. (4-11-06)~~

~~406.—414. (RESERVED)~~

~~415. **AIR MEDICAL RESPONSE CRITERIA.**~~

~~The need for an air medical request will be determined by the licensed EMS service licensed personnel based on their patient assessment and transport time. Each licensed EMS service must develop written criteria based on best medical practice principles. The following conditions must be included in the criteria: (3-29-12)~~

~~01. **What Clinical Conditions Require Written Criteria?** The licensed EMS service written criteria will provide guidance to the licensed EMS personnel for the following clinical conditions: (3-29-12)~~

~~a. The patient has a penetrating or crush injury to head, neck, chest, abdomen, or pelvis; (4-11-06)~~

~~b. Neurological presentation suggestive of spinal cord injury; (4-11-06)~~

~~c. Evidence of a skull fracture (depressed, open, or basilar) as detected visually or by palpation; (4-11-06)~~

~~d. Fracture or dislocation with absent distal pulse; (4-11-06)~~

~~e. A Glasgow Coma Score of ten (10) or less; (4-11-06)~~

~~f. Unstable vital signs with evidence of shock; (4-11-06)~~

~~g. Cardiac arrest; (4-11-06)~~

~~h. Respiratory arrest; (4-11-06)~~

~~i. Respiratory distress; (4-11-06)~~

~~j. Upper airway compromise; (4-11-06)~~

- ~~k.~~     *Anaphylaxis;*     (4-11-06)
- ~~l.~~     *Near-drowning;*     (4-11-06)
- ~~m.~~     *Changes in level of consciousness;*     (4-11-06)
- ~~n.~~     *Amputation of an extremity; and*     (4-11-06)
- ~~o.~~     *Burns greater than twenty percent (20%) of body surface or with suspected airway compromise.*     (4-11-06)
  
- ~~02.~~     ~~**What Complicating Conditions Require Written Criteria?** When associated with clinical conditions in Subsection 415.01 of these rules, the following complicating conditions require written guidance for EMS personnel:~~     (4-11-06)
- ~~a.~~     *Extremes of age;*     (4-11-06)
- ~~b.~~     *Pregnancy; and*     (4-11-06)
- ~~c.~~     *Patient “do not resuscitate” status as described in Section 400 of these rules.*     (4-11-06)
  
- ~~03.~~     ~~**What Operational Conditions Require Written Guidance for an Air Medical Response?** The licensed EMS service written criteria will provide guidance to the licensed EMS personnel for the following operational conditions:~~     (3-29-12)
- ~~a.~~     *Availability of local hospitals and regional medical centers;*     (4-11-06)
- ~~b.~~     *Air medical response to the scene and transport to an appropriate hospital will be significantly shorter than ground transport time;*     (4-11-06)
- ~~c.~~     *Access to time sensitive medical interventions such as percutaneous coronary intervention, thrombolytic administration for stroke, or cardiac care;*     (4-11-06)
- ~~d.~~     *When the patient's clinical condition indicates the need for advanced life support and air medical is the most readily available access to advanced life support capabilities;*     (4-11-06)
- ~~e.~~     *As an additional resource for a multiple patient incident;*     (4-11-06)
- ~~f.~~     *Remote location of the patient; and*     (4-11-06)
- ~~g.~~     *Local destination protocols.*     (4-11-06)
  
- ~~416.—419.~~     ~~**(RESERVED)**~~
  
- ~~420.~~     ~~**COMMUNICATIONS.**~~
  
- ~~01.~~     ~~**Who Is Responsible for Requesting an Air Medical Response?** The licensed EMS service will establish a uniform method of communication, in compliance with the local incident management system, to request air medical response.~~     (4-11-06)
- ~~02.~~     ~~**What Information Must Be Given When Requesting an Air Medical Response?** Requests for an air medical response must include the following information as it becomes available:~~     (4-11-06)
- ~~a.~~     *Type of incident;*     (4-11-06)
- ~~b.~~     *Landing zone location or GPS (latitude/longitude) coordinates, or both;*     (4-11-06)

- ~~e. Scene contact unit or scene incident commander, or both; (4-11-06)~~
- ~~d. Number of patients if known; (4-11-06)~~
- ~~e. Need for special equipment; (4-11-06)~~
- ~~f. How to contact on scene EMS personnel, and (4-11-06)~~
- ~~g. How to contact the landing zone officer. (4-11-06)~~
- ~~03. Who Is Notified of a Request for an Air Medical Response? The air medical service will notify the State EMS Communication Center within ten (10) minutes of launching an aircraft in response to a request for emergency services. Notification will include: (4-11-06)~~
- ~~a. The name of the requesting entity; (4-11-06)~~
- ~~b. Location of the landing zone; and (4-11-06)~~
- ~~e. Scene contact unit and scene incident commander, if known. (4-11-06)~~
- ~~04. Who Is Provided the Estimated Time of Arrival at the Specified Landing Zone? Upon receipt of a request for emergency services, the air medical service will provide the requesting entity with an estimated time to arrival in hours and minutes at the location of the specified landing zone and any changes to that estimated time. (4-11-06)~~
- ~~05. Who Must Confirm Availability of an Air Medical Response? Upon receipt of a request, the air medical service will inform the requesting entity if the air medical service is not immediately available to respond. (4-11-06)~~
- ~~421. 424. (RESERVED)~~
- ~~425. LANDING ZONE AND SAFETY.~~
- ~~01. Who Is Responsible for Setting Up Landing Zone Procedures? The licensed EMS service in conjunction with the air medical service(s) must have written procedures for establishment of landing zones. Such procedures will be compatible with the local incident management system. (4-11-06)~~
- ~~02. What Are the Responsibilities of Landing Zone Officers? The procedures for establishment of landing zones must include identification of Landing Zone Officers with responsibility for the following: (4-11-06)~~
- ~~a. Landing zone preparation; (4-11-06)~~
- ~~b. Landing zone safety; and (4-11-06)~~
- ~~e. Communication between ground and air agencies. (4-11-06)~~
- ~~032. What Training Is Required for Landing Zone Officers? The Each licensed EMS service agency will assure that EMS licensed personnel, designated as Landing Zone Officers, have completed training in establishing an air medical landing zone based on the following elements: (3-29-12)( )~~
- ~~a. The required size of a landing zone; (4-11-06)~~
- ~~b. The allowable slope of a landing zone; (4-11-06)~~
- ~~c. The allowable surface conditions; (4-11-06)~~

- d. Hazards and obstructions; (4-11-06)
- e. Marking and lighting; (4-11-06)
- f. Landing zone communications; and (4-11-06)
- g. Landing zone safety. (4-11-06)

~~04. **What Is the Deadline for Obtaining Training as Landing Zone Officers?** Current EMS licensed personnel, designated as Landing Zone Officers, must complete the required training described in Subsection 425.03 of this rule by June 30, 2007. (3-29-12)~~

~~05. **What Is the Deadline for Training as a Landing Zone Officer for EMS License Renewal?** All EMS certified personnel will complete training described in Subsection 425.03 of this rule as a component of required continuing education for license renewal not later than September 30, 2010. (3-29-12)~~

~~06. **Who Has the Final Decision to Use an Established Landing Zone?** The air medical pilot may refuse the use of an established landing zone. In the event of pilot refusal, the landing zone officer will initiate communications to identify an alternate landing zone. (4-11-06)~~

~~426. -- 429. (RESERVED)~~

~~430. **PATIENT DESTINATION.**~~

~~The air medical service must have written procedures for determination of patient destination. (4-11-06)~~

~~01. **Procedures for Destination Protocol and Medical Supervision.** The air medical service written procedure will consider the licensed EMS service destination protocol and medical supervision received. (3-29-12)~~

~~02. **Availability of Written Procedures.** The air medical service must make the written procedures available to licensed EMS services that utilize their services. (4-11-06)~~

~~03. **Determination of Destination Will Honor Patient Preference.** The air medical procedures for determination of destination will honor patient preference if the requested facility is capable of providing the necessary medical care and if the requested facility is located within a reasonable distance not compromising patient care or the EMS system. (4-11-06)~~

~~431-434. (RESERVED)~~

**435. PERIODIC REVIEW OF EMS SYSTEM DATA.**

The ~~Department of Health and Welfare~~, EMS Bureau, will periodically review service response data with other EMS system data such as those found in the Trauma Registry maintained in accordance with Title 57, Chapter 20, Idaho Code. (4-11-06)(    )

~~01. **How Often Will the Department Conduct a Review of Air Medical Criteria?** **Every Three Years.** The ~~Idaho~~ EMS Bureau will review the rules, utilization and effectiveness of air medical criteria every three (3) years ~~with the first review being completed no later than June 30, 2009.~~ (4-11-06)(    )~~

~~02. **What May Be Included During the Review of Air Medical Criteria?** **to be Reviewed.** The EMS Bureau review of air medical criteria may include the following: (4-11-06)(    )~~

- a. Licensed EMS service response data; (4-11-06)
- b. Licensed EMS service guidelines; (4-11-06)
- c. Patient treatment and outcome information; and (4-11-06)
- d. Trauma Registry data. (4-11-06)

~~03. **What Information Must Be Provided During the Review of Air Medical Response Criteria?** Licensed EMS services must provide incident specific patient care related data identified and requested by the EMS Bureau in the review of air medical response criteria. (4-11-06)~~

~~043. **To Whom Will the EMS Bureau Report the of Aggregate Data and Findings?** The EMS Bureau will report the aggregate data and findings from the review of air medical criteria to all licensed EMS services agencies, hospitals, county commissioners, and EMS medical directors. (4-11-06)( )~~

436. -- 999. (RESERVED)

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

**16.03.09 - MEDICAID BASIC PLAN BENEFITS**

**DOCKET NO. 16-0309-1301**

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

**EFFECTIVE DATE:** The effective date of the temporary rule is September 1, 2013.

**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, 56-203, 56-250 through 56-257, and 56-260 through 56-266, Idaho Code.

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

<b>Tuesday, August 20, 2013 6:00 p.m. P.D.T.</b>	<b>Wednesday, August 21, 2013 1:00 p.m. M.D.T.</b>	<b>Wednesday, August 21, 2013 6:00 p.m. M.D.T.</b>
<b>IDHW Region I Office (lrg. conf. room, lower level) 1120 Ironwood Dr., Suite 102 Coeur d'Alene, ID 83814</b>	<b>Medicaid Central Office (conf. rooms D-East &amp; West) 3232 Elder Street Boise, ID 83705</b>	<b>IDHW Region VII Office (2nd fl., large conf. room) 150 Shoup Ave. Idaho Falls, ID 83402</b>

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:

Section 56-261, Idaho Code, directs the Department to implement managed care tools to develop an accountable care system to improve health outcomes. In order to comply, the State will implement a 1915(b) Waiver that will require Medicaid participants to enroll in a statewide prepaid ambulatory health plan (PAHP). Rule changes are being made to incorporate the managed care waiver changes into these rules.

Rule changes will integrate mental health clinic services, psychosocial rehabilitative services, service coordination for adults with severe and persistent mental illness (SPMI), service coordination for children with severe emotional disturbance (SED), and substance use disorder services into behavioral health services.

All rules related to behavioral health services are being removed from IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits" and moved into these rules. In addition, specific service limitations are being removed from the rule to allow for behavioral health services to be delivered individualized and evidence-based under a managed care structure, and requirements are being added to describe the responsibilities of the Department and the Department's designee (a managed care contractor) to administer the behavioral health managed care delivery system.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate because it confers a benefit. In compliance with Section 56-261, Idaho Code, that requires the Department to implement managed care systems whenever possible, these rule changes are necessary in order for the Department to confer the Idaho Medicaid Behavioral Health benefits under the applicable authority.

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

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

There is no anticipated fiscal impact to the state general fund. The consolidation of mental health clinic services, psychosocial rehabilitative services, mental health service coordination, and substance use disorder service benefits into one program of behavioral health services provided through a managed care delivery system will be cost-neutral.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this is a temporary rule being done to comply with the requirements in Section 56-261, Idaho Code.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition (DSM-V) is being incorporated by reference into these rules to give it the force and effect of law. The document is 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, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Carolyn Burt at (208) 364-1844.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 28, 2013.

DATED this 9th day of July, 2013.

Tamara Prisock  
DHW - Administrative Rules Unit  
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](mailto:dhwrules@dhw.idaho.gov)

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**THE FOLLOWING IS THE TEMPORARY RULE AND THE TEXT OF THE PROPOSED RULE  
FOR DOCKET NO. 16-0309-1301**

**004. INCORPORATION BY REFERENCE.**

The following are incorporated by reference in this chapter of rules: (3-30-07)

**01. 42 CFR Part 447.** 42 CFR Part 447, "Payment for Services," revised as of October 1, 2001, is available from CMS, 7500 Security Blvd, Baltimore, M.D., 21244-1850 or on the Code of Federal Regulations internet site at <http://practice.aap.org/content.aspx?aid=1599>. (3-30-07)

**02. American Academy of Pediatrics (AAP) Periodicity Schedule.** This document is available on the internet at <http://practice.aap.org/content.aspx?aid=1599>. The schedule is also available at the Division of Medicaid, 3232 Elder Street, Boise, ID 83705. (3-30-07)

**03. American Speech-Language-Hearing Association (ASHA): Medicaid Guidance for Speech-Language Pathology Services.** The American Speech-Language-Hearing Association (2004) Medicaid Guidance for Speech-Language Pathology Services: Addressing the "Under the Direction of" Rule technical report is available on the internet at: <http://www.asha.org/docs/html/TR2004-00142.html>. The report may also be obtained at the ASHA National Office, 2200 Research Boulevard, Rockville, MD 20850-3289, telephone (301) 296-5700. (3-29-10)

- 04. CDC Child and Teen BMI Calculator.** The Centers for Disease Control (CDC) Child and Teen Body Mass Index (BMI) Calculator is available on the internet at <http://www.cdc.gov/nccdphp/dnpa/bmi/index.htm>. The Calculator is also available through the Division of Medicaid, 3232 Elder Street, Boise, ID 83705. (3-30-07)
- 05. DSM-IV-TR.** American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, ~~Fourth~~ **Fifth** Edition, ~~Text Revision~~ (DSM-IV-TR) ~~Washington Arlington, DC VA~~, American Psychiatric Association, 2000**13**. ~~Copies of the manual are available from the American Psychiatric Association, 1400 K Street, N.W., Washington, DC, 20005.~~ A copy of the manual is ~~also~~ available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702. ~~(3-30-07)~~**(9-1-13)T**
- 06. Estimated Useful Lives of Depreciable Hospital Assets, 2004 Revised Edition, Guidelines Lives.** This document may be obtained from American Hospital Publishing, Inc., 211 East Chicago Avenue, Chicago, IL, 60611. (3-30-07)
- 07. Idaho Infant Toddler Program Implementation Manual (Revised September 1999).** The full text of the "Idaho Infant Toddler Program Implementation Manual," revised September 1999, is available at <http://www.infanttoddler.idaho.gov>. (7-1-13)
- 08. Idaho Special Education Manual, September 2001.** The full text of the "Idaho Special Education Manual, September 2001" is available on the Internet at [http://www.sde.idaho.gov/site/special\\_edu/](http://www.sde.idaho.gov/site/special_edu/). A copy is also available at the Idaho Department of Education, 650 West State Street, P.O. Box 83720, Boise, Idaho 83720-0027. (3-30-07)
- 09. Medicare Durable Medical Equipment (DME) Medicare Administrative Contractor (MAC) Jurisdiction D Supplier Manual 2007, As Amended.** Since the supplier manual is amended on a quarterly basis by CMS, the current year's manual is being incorporated by reference, as amended, to allow for the incorporation of the most recent amendments to the manual. The full text of the Medicare. DME MAC Jurisdiction D Supplier Manual is available via the Internet at <https://www.noridianmedicare.com/dme/news/manual/index.html%3f>. (3-30-07)
- 10. Physician's Current Procedural Terminology (CPT® Manual).** This document may be obtained from the American Medical Association, P.O. Box 10950, Chicago, Illinois 60610, or online at <http://www.ama-assn.org/ama/pub/category/3113.html>. (3-30-07)
- 11. Provider Reimbursement Manual (PRM).** The Provider Reimbursement Manual (PRM), Part I and Part II (CMS Publication 15-1 and 15-2), is available on the CMS website at <http://www.cms.gov/Manuals/PBM/list.asp>. (3-30-07)
- 12. SIB-R Comprehensive Manual.** Scales of Independent Behavior - Revised Comprehensive Manual, 1996, Riverside Publishing Co, 425 Spring Lake Drive, Itasca, IL 60143-2079. A copy is available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho 83702. (3-30-07)
- 13. Travel Policies and Procedures of the Idaho State Board of Examiners.** The text of "Idaho State Travel Policies and Procedures of the Idaho State Board of Examiners," Appendices A and B, June 13, 2000, is available at the Office of the State Controller, 700 W. State St., 5th Fl., Box 83720, Boise, Idaho 83720-0011 or on the Internet at <http://www.sco.idaho.gov>. (3-30-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.**

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

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

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

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

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

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

~~**a.** *Mental Health Clinics.* The criminal history check requirements applicable to mental health clinic staff are found in Subsection 714.05 of these rules. (3-30-07)~~

**ba.** Contracted Non-Emergency Medical Transportation Providers. All staff of transportation providers having contact with participants must comply with IDAPA 16.05.06, "Criminal History and Background Checks," with the exception of individual contracted transportation providers defined in Subsection 870.05 of these rules. (4-7-11)

~~**c.** *Substance Abuse Treatment Providers.* The criminal history check requirements applicable to substance abuse treatment providers are found in Section 694 of these rules. (5-8-09)~~

**b.** Provider types deemed by the Department to be at high risk for fraud, waste, and abuse under Subsection 200.02 of these rules must consent to comply with criminal background checks, including fingerprinting, in accordance with 42 CFR 455.434. (9-1-13)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**011. DEFINITIONS: I THROUGH O.**

For the purposes of these rules, the following terms are used as defined below: (3-30-07)

**01.** **ICF/ID.** Intermediate Care Facility for People with Intellectual Disabilities. An ICF/ID is an entity licensed as an ICF/ID and federally certified to provide care to Medicaid and Medicare participants with developmental disabilities. (3-30-07)

**02.** **Idaho Behavioral Health Plan (IBHP).** The Idaho Behavioral Health Plan is a prepaid ambulatory health plan (PAHP) that provides outpatient behavioral health coverage for Medicaid-eligible children and adults. Outpatient behavioral health services include mental health and substance use disorder treatment as well as case management services. The coordination and provision of behavioral health services as authorized through the IBHP contract are provided to qualified, enrolled participants by a statewide network of professionally licensed and certified behavioral health providers. (9-1-13)T

**023.** **Idaho Infant Toddler Program.** The Idaho Infant Toddler Program serves children from birth up to three (3) years of age (36 months), and must meet the requirements and provisions of the Individuals with

Disabilities Education Act (IDEA), Part C; the Family Education Rights and Privacy Act; Sections 16-101, et seq., Idaho Code, regarding early intervention services; and the Idaho State Plan for Early Intervention Services under IDEA, Part C. (7-1-13)

- a. These requirements for the Idaho Infant Toddler Program include: (7-1-13)
  - i. Adherence to procedural safeguards and time lines; (7-1-13)
  - ii. Use of multi-disciplinary assessments and Individualized Family Service Plans (IFSPs); (7-1-13)
  - iii. Provision of early intervention services in the natural environment; (7-1-13)
  - iv. Transition planning; and (7-1-13)
  - v. Program enrollment and reporting requirements. (7-1-13)
- b. The Idaho Infant Toddler Program may provide the following services for Medicaid reimbursement: (7-1-13)
  - i. Occupational therapy; (7-1-13)
  - ii. Physical therapy; (7-1-13)
  - iii. Speech-language pathology; (7-1-13)
  - iv. Audiology; and (7-1-13)
  - v. Children’s developmental disabilities services defined under IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits.” (7-1-13)

**034. In-Patient Hospital Services.** Services that are ordinarily furnished in a hospital for the care and treatment of an in-patient under the direction of a physician or dentist except for those services provided in mental hospitals. (3-30-07)

**045. Intermediary.** Any organization that administers Title XIX or Title XXI; in this case the Department of Health and Welfare. (3-30-07)

**056. Intermediate Care Facility Services.** Those services furnished in an intermediate care facility as defined in 42 CFR 440.150, but excluding services provided in a Christian Science Sanatorium. (3-30-07)

**067. Legal Representative.** A parent with custody of a minor child, one who holds a legally-executed and effective power of attorney for health decisions, or a court-appointed guardian whose powers include the power to make health care decisions. (3-30-07)

**078. Legend Drug.** A drug that requires, by federal regulation or state rule, the order of a licensed medical practitioner before dispensing or administration to the patient. (3-30-07)

**089. Level of Care.** The classification in which a participant is placed, based on severity of need for institutional care. (3-30-07)

**109. Licensed, Qualified Professionals.** Individuals licensed, registered, or certified by national certification standards in their respective discipline, or otherwise qualified within the state of Idaho. (3-30-07)

**101. Lock-In Program.** An administrative sanction, required of a participant found to have misused the services provided by the Medical Assistance Program. The participant is required to select one (1) provider in the identified area(s) of misuse to serve as the primary provider. (3-30-07)

**122. Locum Tenens/Reciprocal Billing.** The practice of a physician to retain a substitute physician when the regular physician is absent for reasons such as illness, pregnancy, vacation, or continuing medical education. The substitute physician is called the “Locum Tenens” physician. Reimbursement to a Locum Tenens physician will be limited to a period of ninety (90) continuous days. Reciprocal billing occurs when a substitute physician covers the regular physician during an absence or on an on-call basis a period of fourteen (14) continuous days or less. (3-30-07)

**123. Medical Assistance.** Payments for part or all of the cost of services funded by Titles XIX or XXI of the federal Social Security Act, as amended. (3-30-07)

**134. Medicaid.** Idaho's Medical Assistance Program. (3-30-07)

**145. Medicaid-Related Ancillary Costs.** For the purpose of these rules, those services considered to be ancillary by Medicare cost reporting principles. Medicaid-related ancillary costs will be determined by apportioning direct and indirect costs associated with each ancillary service to Medicaid participants by dividing Medicaid charges into total charges for that service. The resulting percentage, when multiplied by the ancillary service cost, will be considered Medicaid-related ancillaries. (3-30-07)

**156. Medical Necessity (Medically Necessary).** A service is medically necessary if: (3-30-07)

**a.** It is reasonably calculated to prevent, diagnose, or treat conditions in the participant that endanger life, cause pain, or cause functionally significant deformity or malfunction; and (3-30-07)

**b.** There is no other equally effective course of treatment available or suitable for the participant requesting the service which is more conservative or substantially less costly. (3-30-07)

**c.** Medical services must be of a quality that meets professionally-recognized standards of health care and must be substantiated by records including evidence of such medical necessity and quality. Those records must be made available to the Department upon request. (3-30-07)

**167. Medical Supplies.** Items excluding drugs, biologicals, and equipment furnished incident to a physician's professional services commonly furnished in a physician's office or items ordered by a physician for the treatment of a specific medical condition. These items are generally not useful to an individual in the absence of an illness and are consumable, nonreusable, disposable, and generally have no salvage value. Surgical dressings, ace bandages, splints and casts, and other devices used for reduction of fractures or dislocations are considered supplies. (3-30-07)

**178. Midwife.** An individual qualified as one of the following: (3-29-12)

**a.** Licensed Midwife. A person who is licensed by the Idaho Board of Midwifery under Title 54, Chapter 55, Idaho Code, and IDAPA 24.26.01, “Rules of the Idaho Board of Midwifery.” (3-29-12)

**b.** Nurse Midwife (NM). An advanced practice professional nurse who is licensed by the Idaho Board of nursing and who meets all the applicable requirements to practice as a nurse midwife under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, “Rules of the Idaho Board of Nursing.” (3-29-12)

**189. Nominal Charges.** A public provider’s charges are nominal where aggregate charges amount to less than one-half (1/2) of the reasonable cost of the services provided. (3-30-07)

**1920. Nonambulatory.** Unable to walk without assistance. (3-30-07)

**201. Non-Legend Drug.** Any drug the distribution of which is not subject to the ordering, dispensing, or administering by a licensed medical practitioner. (3-30-07)

**242. Nurse Practitioner (NP).** A registered nurse or 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.” (7-1-13)

**223.** **Nursing Facility (NF).** An institution, or distinct part of an institution, that is primarily engaged in providing skilled nursing care and related services for participants. It is an entity licensed as a nursing facility and federally certified to provide care to Medicaid and Medicare participants. Participants must require medical or nursing care, or rehabilitation services for injuries, disabilities, or sickness. (3-30-07)

**234.** **Orthotic.** Pertaining to or promoting the support of an impaired joint or limb. (3-30-07)

**245.** **Outpatient Hospital Services.** Preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished by or under the direction of a physician or dentist to a patient not in need of inpatient hospital care. (3-30-07)

**256.** **Out-of-State Care.** Medical service that is not provided in Idaho or bordering counties is considered out-of-state. Bordering counties outside Idaho are considered out-of-state for the purpose of authorizing long term care. (3-30-07)

**267.** **Oxygen-Related Equipment.** Equipment which is utilized or acquired for the routine administration of oxygen in the home. This includes oxygen tanks, regulators, humidification nebulizers, oxygen concentrators, and related equipment. Equipment which is used solely for the administration of medication into the lungs is excluded from this definition. (3-30-07)

**012. DEFINITIONS: P THROUGH Z.**

For the purposes of these rules, the following terms are used as defined below: (3-30-07)

**01. Participant.** A person eligible for and enrolled in the Idaho Medical Assistance Program. (3-30-07)

**02. Patient.** The person undergoing treatment or receiving services from a provider. (3-30-07)

**03. 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. (3-30-07)

**04. Physician Assistant (PA).** 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." (3-30-07)

**05. Plan of Care.** A written description of medical, remedial, or rehabilitative services to be provided to a participant, developed by or under the direction and written approval of a physician. Medications, services and treatments are identified specifically as to amount, type and duration of service. (3-30-07)

**06. Prepaid Ambulatory Health Plan (PAHP).** As defined in 42 CFR 438.2, a PAHP is an entity that provides medical services to enrollees under contract with the Department on the basis of prepaid capitation payments, or other arrangements that do not use State Plan payment rates. The PAHP does not provide or arrange for, and is not responsible for the provision of any inpatient hospital or institutional services for its enrollees, and does not have a comprehensive risk contract. (9-1-13)T

**067.** **Private Rate.** Rate most frequently charged to private patients for a service or item. (3-30-07)

**078.** **PRM.** Provider Reimbursement Manual. (3-30-07)

**089.** **Property.** The homestead and all personal and real property in which the participant has a legal interest. (3-30-07)

**109.** **Prosthetic Device.** Replacement, corrective, or supportive devices prescribed by a physician or other licensed practitioner of the healing arts profession within the scope of his practice as defined by state law to: (3-30-07)

- a. Artificially replace a missing portion of the body; or (3-30-07)
  - b. Prevent or correct physical deformities or malfunctions; or (3-30-07)
  - c. Support a weak or deformed portion of the body. (3-30-07)
  - d. Computerized communication devices are not included in this definition of a prosthetic device. (3-30-07)
- 101. Provider.** Any individual, partnership, association, corporation or organization, public or private, that furnishes medical goods or services in compliance with these rules and who has applied for and received a Medicaid provider number and who has entered into a written provider agreement with the Department in accordance with Section 205 of these rules. (3-30-07)
- 112. Provider Agreement.** A written agreement between the provider and the Department, entered into in accordance with Section 205 of these rules. (3-30-07)
- 123. Provider Reimbursement Manual (PRM).** A federal publication that specifies accounting treatments and standards for the Medicare program, CMS Publications 15-1 and 15-2, that are incorporated by reference in Section 004 of these rules. (3-30-07)
- 134. Prudent Layperson.** A person who possesses an average knowledge of health and medicine. (3-30-07)
- 145. Psychologist, Licensed.** 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." (3-30-07)
- 156. 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. (3-30-07)
- 167. Public Provider.** A public provider is one operated by a federal, state, county, city, or other local government agency or instrumentality. (3-30-07)
- 178. Quality Improvement Organization (QIO).** An organization that performs utilization and quality control review of health care furnished to Medicare and Medicaid participants. A QIO is formerly known as a Peer Review Organization (PRO). (3-30-07)
- 189. Related Entity.** An organization with which the provider is associated or affiliated to a significant extent, or has control of, or is controlled by, that furnishes the services, facilities, or supplies for the provider. (3-30-07)
- 1920. R.N.** Registered Nurse, which in the State of Idaho is known as a Licensed Professional Nurse. (3-30-07)
- 201. Rural Health Clinic (RHC).** An outpatient entity that meets the requirements of 42 USC Section 1395x(aa)(2). It is primarily engaged in furnishing physicians and other medical and health services in rural, federally-defined, medically underserved areas, or designated health professional shortage areas. (3-30-07)
- 212. Rural Hospital-Based Nursing Facilities.** Hospital-based nursing facilities not located within a metropolitan statistical area (MSA) as defined by the United States Bureau of Census. (3-30-07)
- 223. Social Security Act.** 42 USC 101 et seq., authorizing, in part, federal grants to the states for medical assistance to low-income persons who meet certain criteria. (3-30-07)

~~234.~~ **State Plan.** The contract between the state and federal government under 42 USC Section 1396a(a). (3-30-07)

~~245.~~ **Supervision.** Procedural guidance by a qualified person and initial direction and periodic inspection of the actual act, at the site of service delivery. (3-30-07)

~~256.~~ **Title XVIII.** Title XVIII of the Social Security Act, known as Medicare, for aged, blind, and disabled individuals administered by the federal government. (3-30-07)

~~267.~~ **Title XIX.** Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the states. This program pays for medical assistance for certain individuals and families with low income and limited resources. (3-30-07)

~~278.~~ **Title XXI.** Title XXI of the Social Security Act, known as the State Children's Health Insurance Program (SCHIP). This is a program that primarily pays for medical assistance for low-income children. (3-30-07)

~~289.~~ **Third Party.** Includes a person, institution, corporation, public or private agency that is liable to pay all or part of the medical cost of injury, disease, or disability of a medical assistance participant. (3-30-07)

~~2930.~~ **Transportation.** The physical movement of a participant to and from a medical appointment or service by the participant, another person, taxi or common carrier. (3-30-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**150. CHOICE OF PROVIDERS.**

**01. Service Selection.** Each participant may obtain any services available from any participating institution, agency, pharmacy, or practitioner of his choice, unless enrolled in Healthy Connections or a Prepaid Ambulatory Health Plan (PAHP) that limits provider choice. This, however, does not prohibit the Department from establishing the fees which will be paid to providers for furnishing medical and remedial care available under the Medical Assistance Program, or from setting standards relating to the qualifications of providers of such care. ~~(3-30-07)~~(9-1-13)T

**02. Lock-In Option.** (3-30-07)

**a.** The Department may implement a total or partial lock-in program for any participant found to be misusing the Medical Assistance Program according to provisions in Sections 910 through 918 of these rules. (3-30-07)

**b.** In situations where the participant has been restricted to a participant lock-in program, that participant may choose the physician and pharmacy of his choice. The providers chosen by the lock-in participant will be identified in the Department's Eligibility Verification System (EVS). This information will be available to any Medicaid provider who accesses the EVS. (3-30-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**230. GENERAL PAYMENT PROCEDURES.**

**01. Provided Services.** (3-30-07)

**a.** Each participant may consult a participating physician or provider of his choice for care and receive covered services by presenting his identification card to the provider, subject to restrictions imposed by ~~α~~

participation in Healthy Connections [or enrollment in a Prepaid Ambulatory Health Plan \(PAHP\)](#).

~~(3-30-07)~~(9-1-13)T

**b.** The provider must obtain the required information by using the Medicaid number on the identification card from the Electronic Verification System and transfer the required information onto the appropriate claim form. Where the Electronic Verification System (EVS) indicates that a participant is enrolled in Healthy Connections, the provider must obtain a referral from the primary care provider. Claims for services provided to participant designated as participating in Healthy Connections by other than the primary care provider, without proper referral, will not be paid. (3-30-07)

**c.** Upon providing the care and services to a participant, the provider or his agent must submit a properly completed claim to the Department. (3-30-07)

**d.** The Department is to process each claim received and make payment directly to the provider. (3-30-07)

**e.** The Department will not supply claim forms. Forms needed to comply with the Department's unique billing requirements are included in Appendix D of the Idaho Medicaid Provider Handbook. (3-30-07)

**02. Individual Provider Reimbursement.** The Department will not pay the individual provider more than the lowest of: (3-30-07)

**a.** The provider's actual charge for service; or (3-30-07)

**b.** The maximum allowable charge for the service as established by the Department on its pricing file, if the service or item does not have a specific price on file, the provider must submit documentation to the Department and reimbursement will be based on the documentation; or (3-30-07)

**c.** The Medicaid-allowed amount minus the Medicare payment or the Medicare co-insurance and deductible amounts added together when a participant has both Medicare and Medicaid. (3-30-07)

**03. Services Normally Billed Directly to the Patient.** If a provider delivers services and it is customary for the provider to bill patients directly for such services, the provider must complete the appropriate claim form and submit it to the Department. (3-30-07)

**04. Reimbursement for Other Noninstitutional Services.** The Department will reimburse for all noninstitutional services which are not included in other Idaho Department of Health and Welfare Rules, but allowed under Idaho's Medical Assistance Program according to the provisions of 42 CFR Section 447.325. (3-30-07)

**05. Review of Records.** (3-30-07)

**a.** The Department, or its duly authorized agent, the U.S. Department of Health and Human Services, and the Bureau of Audits and Investigations have the right to review pertinent records of providers receiving Medicaid reimbursement for covered services. (3-30-07)

**b.** The review of participants' medical and financial records must be conducted for the purposes of determining: (3-30-07)

**i.** The necessity for the care; or (3-30-07)

**ii.** That treatment was rendered in accordance with accepted medical standards of practice; or (3-30-07)

**iii.** That charges were not in excess of the provider's usual and customary rates; or (3-30-07)

**iv.** That fraudulent or abusive treatment and billing practices are not taking place. (3-30-07)

**c.** Refusal of a provider to permit the Department to review records pertinent to medical assistance will constitute grounds for: (3-30-07)

**i.** Withholding payments to the provider until access to the requested information is granted; or (3-30-07)

**ii.** Suspending the provider's number. (3-30-07)

**06. Lower of Cost or Charges.** Payment to providers, other than public providers furnishing such services free of charge or at nominal charges to the public, is the lesser of the reasonable cost of such services or the customary charges with respect to such services. Public providers that furnish services free of charge or at a nominal charge are reimbursed fair compensation which is the same as reasonable cost. (3-30-07)

**07. Procedures for Medicare Cross-Over Claims.** (3-30-07)

**a.** If a medical assistance participant is eligible for Medicare, the provider must first bill Medicare for the services rendered to the participant. (3-30-07)

**b.** If a provider accepts a Medicare assignment, the Department will pay the provider for the services, up to the Medicaid allowable amount minus the Medicare payment, and forward the payment to the provider automatically based upon the Medicare Summary Notice (MSN) information on the computer tape which is received from the Medicare Part B Carrier on a weekly basis. (3-30-07)

**c.** If a provider does not accept a Medicare assignment, a MSN must be attached to the appropriate claim form and submitted to the Department. The Department will pay the provider for the services, up to the Medicaid allowable amount minus the Medicare payment. (3-30-07)

**d.** For all other services, a MSN must be attached to the appropriate claim form and submitted to the Department. The Department will pay the provider for the services up to the Medicaid allowable amount minus the Medicare payment. (3-30-07)

**08. Services Reimbursable After the Appeals Process.** Reimbursement for services originally identified by the Department as not medically necessary will be made if such decision is reversed by the appeals process required in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (3-30-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**399. COVERED SERVICES UNDER BASIC PLAN BENEFITS.**

Individuals who are eligible for Medicaid Basic Plan Benefits are eligible for the following benefits, subject to the coverage limitations contained in these rules. Those individuals eligible for services under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," are also eligible for the services covered under this chapter of rules, unless specifically exempted. (5-8-09)

**01. Hospital Services.** The range of hospital services covered is described in Sections 400 through 449 of these rules. (5-8-09)

**a.** Inpatient Hospital Services are described in Sections 400 through 406. (3-30-07)

**b.** Outpatient Hospital Services are described in Sections 410 through 416. (3-30-07)

**c.** Reconstructive Surgery services are described in Sections 420 through 426. (3-30-07)

**d.** Surgical procedures for weight loss are described in Sections 430 through 436. (3-30-07)

- e. Investigational procedures or treatments are described in Sections 440 through 446. (3-30-07)
- 02. Ambulatory Surgical Centers.** Ambulatory Surgical Center services are described in Sections 450 through 499 of these rules. (5-8-09)
- 03. Physician Services and Abortion Procedures.** Physician services and abortion procedures are described in Sections 500 through 519 of these rules. (5-8-09)
  - a. Physician services are described in Sections 500 through 506. (3-30-07)
  - b. Abortion procedures are described in Sections 510 through 516. (3-30-07)
- 04. Other Practitioner Services.** Other practitioner services are described in Sections 520 through 559 of these rules. (5-8-09)
  - a. Midlevel practitioner services are described in Sections 520 through 526. (3-30-07)
  - b. Chiropractic services are described in Sections 530 through 536. (3-30-07)
  - c. Podiatrist services are described in Sections 540 through 545. (3-29-12)
  - d. Licensed midwife (LM) services are described in Sections 546 through 552. (3-29-12)
  - e. Optometrist services are described in Sections 553 through 556. (3-29-12)
- 05. Primary Care Case Management.** Primary care case management services are described in Sections 560 through 579 of these rules. (5-8-09)
  - a. Healthy Connections services are described in Sections 560 through 566. (4-4-13)
  - b. Health Home services are described in Sections 570 through 576. (4-4-13)
- 06. Prevention Services.** The range of prevention services covered is described in Sections 580 through 649 of these rules. (4-4-13)
  - a. Child Wellness Services are described in Sections 580 through 586. (3-30-07)
  - b. Adult Physical Services are described in Sections 590 through 596. (3-30-07)
  - c. Screening mammography services are described in Sections 600 through 606. (3-30-07)
  - d. Diagnostic Screening Clinic services are described in Sections 610 through 614. (4-4-13)
  - e. Additional Assessment and Evaluation services are described in Section 615. (4-4-13)
  - f. Health Questionnaire Assessment is described in Section 618. (4-4-13)
  - g. Preventive Health Assistance benefits are described in Sections 620 through 626. (5-8-09)
  - h. Nutritional services are described in Sections 630 through 636. (3-30-07)
  - i. Diabetes Education and Training services are described in Sections 640 through 646. (3-30-07)
- 07. Laboratory and Radiology Services.** Laboratory and radiology services are described in Sections 650 through 659 of these rules. (5-8-09)

08. **Prescription Drugs.** Prescription drug services are described in Sections 660 through 679 of these rules. (5-8-09)
09. **Family Planning.** Family planning services are described in Sections 680 through 689 of these rules. (5-8-09)
10. ~~Substance Abuse Treatment Services. Services for substance abuse treatment are described in Sections 690 through 699 of these rules.~~ **Outpatient Behavioral Health Services.** Community-based outpatient services for behavioral health treatment are described in Sections 707 through 711 of these rules. ~~(5-8-09)~~(9-1-13)T
- ~~11. Mental Health Services. The range of covered Mental Health services are described in Sections 700 through 719 of these rules. (5-8-09)~~
- ~~a.11. Inpatient Psychiatric Hospital Services.~~ Inpatient Psychiatric Hospital services are described in Sections 700 through 706. ~~(3-30-07)~~(9-1-13)T
- ~~b. Mental Health Clinic services are described in Sections 707 through 719. (4-4-13)~~
12. **Home Health Services.** Home health services are described in Sections 720 through 729 of these rules. (5-8-09)
13. **Therapy Services.** Occupational therapy, physical therapy, and speech-language pathology services are described in Sections 730 through 739 of these rules. (5-8-09)
14. **Audiology Services.** Audiology services are described in Sections 740 through 749 of these rules. (5-8-09)
15. **Durable Medical Equipment and Supplies.** The range of covered durable medical equipment and supplies is described in Sections 750 through 779 of these rules. (5-8-09)
- a. Durable Medical Equipment and supplies are described in Sections 750 through 756. (3-30-07)
- b. Oxygen and related equipment and supplies are described in Sections 760 through 766. (3-30-07)
- c. Prosthetic and orthotic services are described in Sections 770 through 776. (3-30-07)
16. **Vision Services.** Vision services are described in Sections 780 through 789 of these rules. (5-8-09)
17. **Dental Services.** The dental services covered under the Basic Plan are covered under a selective contract as described in Section 800 through 819 of these rules. (3-29-12)
18. **Essential Providers.** The range of covered essential services is described in Sections 820 through 859 of these rules. (5-8-09)
- a. Rural health clinic services are described in Sections 820 through 826. (3-30-07)
- b. Federally Qualified Health Center services are described in Sections 830 through 836. (3-30-07)
- c. Indian Health Services Clinic services are described in Sections 840 through 846. (3-30-07)
- d. School-Based services are described in Sections 850 through 856~~7~~. ~~(3-30-07)~~(9-1-13)T
19. **Transportation.** The range of covered transportation services is described in Sections 860 through 879 of these rules. (5-8-09)
- a. Emergency transportation services are described in Sections 860 through 866. (3-30-07)

- b. Non-emergency medical transportation services are described in Sections 870 through 876. (4-4-13)
20. **EPSDT Services.** EPSDT services are described in Sections 880 through 889 of these rules. (5-8-09)
21. **Specific Pregnancy-Related Services.** Specific pregnancy-related services are described in Sections 890 through 899 of these rules. (5-8-09)

**(BREAK IN CONTINUITY OF SECTIONS)**

**500. PHYSICIAN SERVICES: DEFINITIONS.**

01. **Physician Services.** Physician services include the treatment of medical and surgical conditions by doctors of medicine or osteopathy subject to the limitations of practice imposed by state law, and to the restrictions and exclusions of coverage contained in Section 390 and Subsection 502.01 of these rules. Physician services as defined in Subsection 500.01 of this rule will be reimbursed by the Department. (5-8-09)

02. **Psychiatric Telehealth.** Psychiatric Telehealth is an electronic real time synchronous audio-visual contact between a physician and participant related to the treatment of the participant. The participant is in one (1) location, called the hub site, with specialized equipment including a video camera and monitor, and with the hosting provider. The physician is at another location, called the spoke site, with specialized equipment. The physician and participant interact as if they were having a face-to-face service. This rule does not apply to outpatient behavioral health services provided through the Idaho Behavioral Health Plan (IBHP) that are delivered via telehealth methods. (5-8-09)(9-1-13)T

**501. (RESERVED)**

**502. PHYSICIAN SERVICES: COVERAGE AND LIMITATIONS.**

01. **Outpatient Psychiatric Mental Health Services.** Physician services not provided through the IBHP as outpatient psychiatric mental health services are limited to twelve (12) hours of psychiatric evaluations per eligible participant in any twelve (12) month period; and any combination of individual or group psychotherapy services provided by a physician up to a maximum of forty-five (45) hours of service in the consecutive twelve (12) months period beginning with the first such service. (3-30-07)(9-1-13)T

02. **Sterilization Procedures.** Particular restrictions pertaining to payment for sterilization procedures are contained in Sections 680 through 686 of these rules. (3-30-07)

03. **Abortions.** Restrictions governing payment for abortions are contained in Sections 511 through 514 of these rules. (3-30-07)

04. **Tonometry.** Payment for tonometry is limited to one (1) examination for individuals over the age of forty (40) years during any twelve (12) month period (in addition to tonometry as a component of examination to determine visual acuity). In the event examination to determine visual acuity is not done, two (2) tonometry examinations per twelve (12) month period are allowed participants over the age of forty (40). This limitation does not apply to participants receiving continuing treatment for glaucoma. (3-30-07)

05. **Physical Therapy Services.** Payment for physical therapy services performed in the physician's office is limited to those services which are described and supported by the diagnosis. (3-30-07)

06. **Injectable Vitamins.** Payment for allowable injectable vitamins will be allowed when supported by the diagnosis. Injectable vitamin therapy is limited to Vitamin B12 (and analogues), Vitamin K (and analogues), folic acid, and mixtures consisting of Vitamin B12, folic acid, and iron salts in any combination. (3-30-07)

07. **Corneal Transplants and Kidney Transplants.** Corneal transplants and kidney transplants are covered by the Medical Assistance Program. (3-30-07)

08. **Psychiatric Telehealth.** Payment for psychiatric telehealth services not provided through the IBHP is limited to psychiatric services for diagnostic assessments, pharmacological management, and psychotherapy with evaluation and management services twenty (20) to thirty (30) minutes in duration. Reimbursement is not available for a telephone conversation, electronic mail message (e-mail), or facsimile transmission (fax) between a physician and a participant. Service will not be reimbursed when provided via a videophone or webcam. ~~(5-8-09)~~(9-1-13)T

**(BREAK IN CONTINUITY OF SECTIONS)**

611. -- ~~614~~5. (RESERVED)

~~615. ADDITIONAL ASSESSMENT AND EVALUATION SERVICES.~~

~~In addition to evaluations for services as defined in this Chapter, the Department will reimburse for the following evaluations if needed to determine eligibility for Medicaid Enhanced Plan Benefits. (3-30-07)~~

~~01- **Enhanced Mental Health Services.** Enhanced mental health services are not covered under the Basic Plan with the exception of assessment services. The assessment for determination of need for enhanced mental health services is subject to the requirements for comprehensive assessments at IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 114, and provider qualifications under Section 715 of these rules and under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 130 and 131. (3-29-12)~~

~~02- **Service Coordination Services.** Service coordination services are not covered under the Basic Plan, with the exception of assessment services. The assessment for the need for service coordination services is subject to the requirements for service coordination under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Subsection 727.03, as applicable to the service being requested, and provider qualifications under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 729. (3-30-07)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

686. -- ~~689~~. (RESERVED)

**SUB AREA: SUBSTANCE ABUSE TREATMENT SERVICES**  
**(Sections 690 Through 699)**

~~690. **SUBSTANCE ABUSE TREATMENT SERVICES: DEFINITIONS.**~~

~~The following definitions apply to Sections 690 through 696 of these rules. (5-8-09)~~

~~01- **Assessment Services.** Assessment services include annual assessment, interviewing, and treatment plan building. (5-8-09)~~

~~02- **Case Management Services.** Case management services consist of the following: (5-8-09)~~

~~a- **Finding, arranging, and assisting the participant to gain access to and maintain appropriate services, supports, and community resources.** (5-8-09)~~

~~b- **Monitoring participant's progress to verify that services are received and are satisfactory to the participant, ascertaining that services meet the participant's needs, documenting progress and any revisions in services needed, and making alternative arrangements if services become unavailable to the participant.** (5-8-09)~~

- ~~e. Planning services with the participant that include both community reintegration planning and exit planning. (5-8-09)~~
- ~~03. **Drug Testing.** A urinalysis test used to detect the presence of alcohol or drugs. (5-8-09)~~
- ~~04. **Family Therapy.** Service provided jointly to a participant and the participant's family. The desired outcome is the elimination or reduction of alcohol and drug use and arresting, reversing, or retarding of problems associated with alcohol or drug abuse, or both. Family therapy sessions are for the exclusive benefit of the participant. (5-8-09)~~
- ~~05. **Group Counseling.** Service provided to participants in a peer group setting. The desired outcome is the elimination or reduction of alcohol and drug use and arresting, reversing, or retarding of problems associated with alcohol or drug abuse, or both. (5-8-09)~~
- ~~06. **Individual Counseling.** Service provided to a participant in a one-on-one setting with one (1) participant and one (1) counselor. The desired outcome is the elimination or reduction of alcohol and drug use and arresting, reversing, or retarding of problems associated with alcohol or drug abuse, or both. (5-8-09)~~
- ~~07. **Qualified Substance Abuse Treatment Professional.** A person who has one thousand forty (1,040) hours of supervised experience providing substance abuse treatment and meets one (1) of the criteria listed in Subsection 690.07.a. through 690.07.g. of this rule. (5-8-09)~~
- ~~a. Alcohol and drug counselor certified by the Idaho Board of Alcohol/Drug Counselor's Certification, Inc. (CADC or Advanced CADC); (5-8-09)~~
- ~~b. Licensed professional counselor or licensed clinical professional counselor; (5-8-09)~~
- ~~c. Licensed physician; (5-8-09)~~
- ~~d. Licensed psychologist; (5-8-09)~~
- ~~e. Mid-level practitioner including licensed physician assistant, nurse practitioner or clinical nurse specialist; (5-8-09)~~
- ~~f. Licensed clinical social worker or licensed master social worker; (5-8-09)~~
- ~~g. Licensed marriage and family therapist; or (5-8-09)~~
- ~~h. Qualified substance abuse treatment professional. (5-8-09)~~
- ~~08. **Unit.** An increment of fifteen (15) minutes of time. (5-8-09)~~
- ~~691. **SUBSTANCE ABUSE TREATMENT SERVICES- PARTICIPANT ELIGIBILITY.**  
Each participant must meet the intake eligibility screening criteria described in IDAPA 16.07.17, "Alcohol and Substance Use Disorders Services." (5-8-09)~~
- ~~692. **SUBSTANCE ABUSE TREATMENT SERVICES- COVERAGE AND LIMITATIONS.**~~
- ~~01. **Included Services.** The services listed in Subsections 692.01.a. through 692.01.f. of this rule are covered including any limitation on the service for substance abuse treatment. (5-8-09)~~
- ~~a. Assessment services are limited to thirty two (32) units annually. Each assessment is valid for six (6) months and must meet the requirements in IDAPA 16.07.17, "Alcohol and Substance Use Disorders Services." (5-8-09)~~
- ~~b. Case management services are limited to two hundred and twenty (220) units annually and must~~

~~not exceed sixteen (16) units per week. Case management services for substance abuse treatment are not covered when the participant is enrolled in any service coordination services described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." Case management is only provided on an outpatient basis to participants who are at risk of being institutionalized.~~ (5-8-09)

~~e. Drug testing is limited to three (3) tests per week. (5-8-09)~~

~~d. Family therapy services are limited to eight (8) units per week. (5-8-09)~~

~~e. Group counseling services are limited to forty-eight (48) units per week. (5-8-09)~~

~~f. Individual counseling services are limited to forty-eight (48) units per week. (5-8-09)~~

~~02. **Lifetime Cap.** Substance abuse treatment services provided under this chapter of rules are limited to a lifetime cap of five (5) years. The five-year period begins on the date of the initial assessment, regardless of the source of payment for that assessment. This lifetime cap applies only to participants twenty-two (22) years of age or older. (5-8-09)~~

~~03. **Excluded Services.** Services specifically excluded are described in IDAPA 16.07.17, "Alcohol and Substance Use Disorders Services," residential services, and life skills training services. (5-8-09)~~

**693. SUBSTANCE ABUSE TREATMENT SERVICES: PROCEDURAL REQUIREMENTS.**

~~01. **Assessment.** Each participant must receive a biopsychosocial assessment of the participant's alcohol or substance abuse treatment needs. This assessment must meet the requirements in IDAPA 16.07.20, "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs," and IDAPA 16.07.17, "Alcohol and Substance Use Disorders Services," and utilize a Department approved standardized assessment tool. (5-8-09)~~

~~02. **Treatment Plan.** The assessment must be used to develop an individualized treatment plan for each participant. The development and content of the treatment plan must meet the requirements in IDAPA 16.07.20, "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs," and IDAPA 16.07.17, "Alcohol and Substance Use Disorders Services." (5-8-09)~~

~~03. **Treatment Services.** Substance abuse treatment services necessary to meet participant needs must be identified in the individualized treatment plan. The treatment services must meet the requirements in IDAPA 16.07.17, "Alcohol and Substance Use Disorders Services." (5-8-09)~~

~~04. **Records.** Each treatment provider must maintain a written record for each participant. The record must meet the standards required for client records in IDAPA 16.07.20, "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs." (5-8-09)~~

~~05. **Prior Authorization.** Substance abuse treatment services must be prior authorized by the Department or its designee as required in IDAPA 16.07.20, "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs." (5-8-09)~~

~~06. **Healthy Connections Referral.** A referral from the participant's Healthy Connections provider is required for substance abuse treatment services when the participant is enrolled in Healthy Connections. (5-8-09)~~

**694. SUBSTANCE ABUSE TREATMENT SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.**

~~01. **Provider Network.** Each provider of substance abuse treatment services must maintain a network of approved programs and treatment facilities that meet the requirements in IDAPA 16.07.20, "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs." (5-8-09)~~

~~02. **Certificate of Approval for Programs and Facilities.** Each program and facility providing substance abuse treatment services must meet the applicable approval and certification requirements described in~~

~~IDAPA 16.07.20, "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs." An agency must have a certificate of approval issued by the Department prior to staff providing substance abuse treatment services. (5-8-09)~~

~~03. **Criminal History Check.** Agency staff providing services to participants must have a criminal history check as provided in Section 009 of these rules and IDAPA 16.05.06, "Criminal History and Background Checks." (5-8-09)~~

~~04. **Assessment.** Assessment must be conducted by a qualified substance abuse treatment professional who is certified to administer the standardized assessment tool being used. (5-8-09)~~

~~05. **Therapy and Counseling Services.** Therapy and counseling services must be provided by a qualified substance abuse treatment professional. (5-8-09)~~

~~06. **Case Management.** Case management services must be provided by a qualified substance abuse treatment professional. (5-8-09)~~

~~695. **SUBSTANCE ABUSE TREATMENT SERVICES: PROVIDER REIMBURSEMENT.** Each covered substance abuse treatment service, except drug testing, is reimbursed by units. Each unit is equal to fifteen (15) minutes of service provided. (5-8-09)~~

~~696. **SUBSTANCE ABUSE TREATMENT SERVICES: QUALITY ASSURANCE.**~~

~~01. **Quality Assurance.** Alcohol and drug programs are subject to the quality assurance provisions described in IDAPA 16.07.20, "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs." (5-8-09)~~

~~02. **Department Performance Measurements.** The Department will establish performance measurements to evaluate the effectiveness of substance abuse treatment services. The measurements will be reviewed at least annually and adjusted as necessary to provide effective outcomes and quality services. (5-8-09)~~

~~697. 699. (RESERVED)~~

SUB AREA: ~~MENTAL~~ **BEHAVIORAL** HEALTH SERVICES  
(Sections 700 -- 719)

(BREAK IN CONTINUITY OF SECTIONS)

707. ~~MENTAL HEALTH CLINIC SERVICES: DEFINITIONS~~ **OUTPATIENT BEHAVIORAL HEALTH SERVICES.**

Outpatient behavioral health services are contained in the "Idaho Behavioral Health Plan" (IBHP) that is authorized by a 1915(b) waiver authority and delivered under a PAHP contract. The IBHP allows for the contractor to provide the administration of community-based outpatient behavioral health services for individuals, based on medical necessity, that include therapeutic and rehabilitative treatment intended to minimize symptoms of mental illness, emotional disturbance, and substance use disorders. These services also help restore independent functioning to the greatest extent possible. For more information, please visit the IBHP website at: <http://www.optumidaho.com/>.

(9-1-13)T

~~01. **Adult.** An adult is an individual who is eighteen (18) years of age or older for the purposes of Mental Health Clinic and other outpatient mental health services. (3-30-07)~~

~~02. **Comprehensive Diagnostic Assessment.** A thorough assessment of the participant's current condition and complete medical and psychiatric history. (5-8-09)~~

~~03. **Comprehensive Diagnostic Assessment Addendum.** A supplement to the comprehensive diagnostic assessment that contains updated information relevant to the formulation of a participant's diagnosis and disposition for treatment. (3-29-12)~~

~~04. **Interdisciplinary Team.** Group that consists of two (2) or more individuals in addition to the participant, the participant's parent or legal guardian, and the participant's natural supports. This may include professionals from several fields or professions. Team members combine their skills and resources to provide guidance and assistance in the creation of the participant's treatment plan. Professionals working with the participant to fulfill the goals and objectives on the treatment plan are members of the participant's interdisciplinary team whether they attend treatment plan meetings or not. At a minimum, professional members of the team include the medical professional authorizing the treatment plan and the specific agency staff member who is working with the participant. (5-8-09)~~

~~05. **Level of Care.** Clinical treatment decisions that determine service site, modality, urgency, and specific interventions needed to address the key presenting signs, symptoms, and environmental factors that indicate the severity of illness and the intensity of service needed by the participant. It also takes into account relevant external factors affecting clinical treatment decisions. (5-8-09)~~

~~06. **Licensed Practitioner of the Healing Arts.** A licensed physician, physician assistant, nurse practitioner, or clinical nurse specialist. The nurse practitioner and clinical nurse specialist must have experience prescribing medications for psychiatric disorders. (5-8-09)~~

~~07. **Mental Health Clinic.** A mental health clinic, also referred to as "agency," must be a proprietorship, partnership, corporation, or other entity, in a distinct location, employing at least two (2) staff qualified to deliver clinic services under this rule and operating under the direction of a physician. (3-30-07)~~

~~08. **Neuropsychological Testing.** Assessment of brain functioning through structured and systematic behavioral observation. Neuropsychological tests are designed to examine a variety of cognitive abilities, including speed of information processing, attention, memory, language, and executive functions, which are necessary for goal-directed behavior. These data can provide information leading to the diagnosis of a cognitive deficit or to the confirmation of a diagnosis, as well as to the localization of organic abnormalities in the central nervous system; the data can also guide effective treatment methods for the rehabilitation of impaired participants. (5-8-09)~~

~~09. **New Participant.** A participant is considered "new" if he has not received Medicaid reimbursable mental health clinic or psychosocial rehabilitation services (PSR) in the twelve (12) months prior to the current treatment episode. (3-29-12)~~

~~10. **Objective.** A milestone toward meeting the goal that is concrete, measurable, time-limited, and identifies specific behavior changes. (5-8-09)~~

~~11. **Occupational Therapy.** For the purposes of mental health treatment, the use of purposeful, goal-oriented activity to achieve optimum functional performance and independence, prevent further disability, and maintain health with individuals who are limited by the symptoms of their mental illness. (5-8-09)~~

~~12. **Pharmacological Management.** The in-depth management of medications for psychiatric disorders for relief of a participant's signs and symptoms of mental illness, provided by a licensed practitioner of the healing arts. (5-8-09)~~

~~13. **Psychiatric Nurse, Licensed Master's Level.** A certified psychiatric nurse, Clinical Nurse Specialist or Psychiatric Nurse Practitioner, must be 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. (3-30-07)~~

~~14. **Psychological Testing.** Psychological testing refers to any measurement procedure for assessing psychological characteristics in which a sample of an examinee's behavior is obtained and subsequently evaluated and scored using a standardized process. This does not refer to assessments that are otherwise conducted by a professional within the scope of his license for the purposes of determining a participant's mental status, diagnoses or~~

~~functional impairments. (3-30-07)~~

~~15. **Psychotherapy.** A method of treating and managing psychiatric disorders through the use of evidenced-based psychological treatment modalities that match the participant's ability to benefit from the service. The focus of the service is on behavioral, emotional, and cognitive aspects of a participant's functioning. (5-8-09)~~

~~16. **Restraints.** Restraints include the use of physical, mechanical, or chemical interventions, or other means to temporarily subdue or modify participant behavior. (5-8-09)~~

~~a. A restraint includes: (5-8-09)~~

~~i. Any manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a participant to move his arms, legs, body, or head freely; or (5-8-09)~~

~~ii. A drug or medication when it is used as a restriction to manage the participant's behavior or restrict the participant's freedom of movement and is not a standard treatment or dosage for the participant's condition; (5-8-09)~~

~~b. A restraint does not include physical escorts or devices, such as orthopedically prescribed devices, to permit the participant to engage in activities without the risk of physical harm. (5-8-09)~~

~~17. **Seclusion.** Seclusion is the involuntary confinement of a participant alone in a room or area from which the participant is prevented from leaving. (5-8-09)~~

~~18. **Serious Emotional Disturbance (SED).** In accordance with the Children's Mental Health Services Act, Section 16-2403, Idaho Code, SED is: (5-8-09)~~

~~a. An emotional or behavioral disorder according to the DSM-IV-TR, which results in a serious disability; and (5-8-09)~~

~~b. Requires sustained treatment interventions; and (5-8-09)~~

~~c. Causes the child's functioning to be impaired in thought, perception, affect, or behavior. (5-8-09)~~

~~d. A substance abuse disorder, or conduct disorder, or developmental disorder, alone, does not constitute a serious emotional disturbance, although one (1) or more of these conditions may co-exist with serious emotional disturbance. (5-8-09)~~

~~19. **Serious Mental Illness (SMI).** In accordance with 42 CFR 483.102(b)(1), a person with SMI: (5-8-09)~~

~~a. Currently or at any time during the year, must have had a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet the diagnostic criteria specified in the DSM-IV-TR; and (5-8-09)~~

~~b. Must have a functional impairment which substantially interferes with or limits one (1) or more major life activities. Functional impairment is defined as difficulties that substantially interfere with or limit role functioning with an individual's basic daily living skills, instrumental living skills, and functioning in social, family, vocational or educational contexts. Instrumental living skills include maintaining a household, managing money, getting around the community, and taking prescribed medication. An adult who met the functional impairment criteria during the past year without the benefit of treatment or other support services is considered to have a serious mental illness. (5-8-09)~~

~~20. **Serious and Persistent Mental Illness (SPMI).** Participants must meet the criteria for SMI, have at least one (1) additional functional impairment, and have a diagnosis under DSM-IV-TR with one (1) of the following: Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Borderline Personality Disorder. The only Not Otherwise Specified (NOS) diagnosis included is Psychotic Disorder NOS for a maximum of one hundred twenty (120) days without a conclusive~~

~~diagnosis.~~

~~(5-8-09)~~

~~21. **Treatment Plan Review.** The practice of obtaining input from members of a participant's interdisciplinary team that is focused on evaluating the programs, progress, and future plans of a participant. This review should provide feedback and suggestions intended to help team members and the participant to accomplish the goals identified on the participant's individualized treatment plan.~~

~~(5-8-09)~~

**708. MENTAL OUTPATIENT BEHAVIORAL HEALTH CLINIC SERVICES: PARTICIPANT ELIGIBILITY.**

~~Eligibility must be established through the assessment services described under Subsections 709.03.a. and 709.03.b. of these rules. The following are requirements for establishing eligibility for mental health clinic services. All participants who are eligible for Medicaid Basic or Enhanced Benchmark State Plan services, except for participants enrolled in the Idaho Medicare-Medicaid Coordinated Plan (MMCP), are automatically enrolled in the Idaho Behavioral Health Plan and may access behavioral health services that are determined to be medically necessary.~~

~~(5-8-09)(9-1-13)T~~

~~01. **History and Physical Examination.** The participant must have documented evidence of a history and physical examination that has been completed by his 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 prior to the delivery of mental health services. A participant who is in crisis may receive mental health services as described under Subsection 709.06 of these rules prior to obtaining a history and physical examination.~~

~~(5-8-09)~~

~~02. **Healthy Connections Referral.** A participant who belongs to the Healthy Connections program must be referred to the mental health clinic by his Healthy Connections physician.~~

~~(5-8-09)~~

~~03. **Establishment of Service Needs.** The initial assessment of the participant must establish that the services requested by the participant or his legal guardian are therapeutically appropriate and can be provided by the clinic.~~

~~(5-8-09)~~

~~04. **Conditions That Require New Assessment and Individualized Treatment Plan.** If an individual who is not eligible for Medicaid receives assessment services from any staff who does not have the qualifications required under Subsection 715.03 of these rules, and later becomes eligible for Medicaid, a new comprehensive diagnostic assessment and individualized treatment plan are required, which must be developed by a professional listed under Subsection 715.03 of these rules.~~

~~(3-29-12)~~

**709. MENTAL OUTPATIENT BEHAVIORAL HEALTH CLINIC SERVICES: COVERAGE AND LIMITATIONS.**

~~All mental health clinic services must be provided at the clinic unless provided to an eligible homeless individual.~~

~~(3-30-07)~~

~~01. **Clinic Services—Mental Health Clinics (MHC).** Under 42 CFR 440.90, the Department will pay for preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services provided by a mental health clinic to a participant who is not an inpatient in a hospital or nursing home or correctional facility except as specified under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 229.~~

~~(3-30-07)~~

~~02. **Services or Supplies in Mental Health Clinics That Are Not Reimbursed.** Any service or supplies not included as part of the allowable scope of Medicaid.~~

~~(5-8-09)~~

~~03. **Evaluation and Diagnostic Services in Mental Health Clinics.** Participants must obtain a comprehensive diagnostic assessment as the initial evaluation in mental health clinics.~~

~~(3-29-12)~~

~~**a.** The comprehensive diagnostic assessment must include a current mental status examination, a description of the participant's readiness and motivation to engage in treatment, participate in the development of his treatment plan and adhere to his treatment plan. The assessment must include the five (5) axes diagnoses under DSM-IV-TR with recommendations for level of care, intensity, and expected duration of treatment services. A~~

~~comprehensive diagnostic assessment is a reimbursable service when: (3-29-12)~~

~~i. A comprehensive diagnostic assessment is medically necessary in order to provide Basic Plan mental health services; (3-29-12)~~

~~ii. The participant is seeking Enhanced Plan services; and (3-29-12)~~

~~iii. When the assessment is performed by qualified staff identified under Subsection 715.02 of these rules. (5-8-09)~~

~~b. Psychological testing may be provided as a reimbursable service when provided in direct response to a specific evaluation question. The psychological report must contain the reason for the performance of this service. Agency staff may deliver this service if they meet one (1) of the following qualifications: (5-8-09)~~

~~i. Licensed Psychologist; (3-30-07)~~

~~ii. Psychologist extenders as described in IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners"; or (3-30-07)~~

~~iii. A qualified therapist listed in Subsection 715.03 of these rules who has documented evidence of education or training qualifying him to administer, score, interpret, and report findings for the psychological test he will be performing. (3-30-07)~~

~~e. Neuropsychological testing may be provided as a reimbursable service when provided in direct response to a specific evaluation question for participants whose clinical presentation indicates possible neurological involvement or central nervous system compromise from either a congenital or acquired etiology impacting the individual's functional capacities. The neuropsychological evaluation report must contain the reason for the performance of this service. Agency staff may deliver this service if they are a licensed psychologist or psychologist extender with specific competencies in neuropsychological testing. (5-8-09)~~

~~d. Occupational therapy assessment may be provided as a reimbursable service when recommended by the treatment team. This service may include the administration of standardized and non-standardized assessments and must be provided 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)~~

~~04. **Psychotherapy Treatment Services in Mental Health Clinics.** Individual and group psychotherapy must be provided in accordance with the goals specified in the individualized treatment plan as described in Section 710 of these rules. (5-8-09)~~

~~05. **Family Psychotherapy.** Family psychotherapy services must be delivered in accordance with the goals of treatment as specified in the individualized treatment plan. The focus of family psychotherapy is on the dynamics within the family structure as it relates to the participant. (5-8-09)~~

~~a. Family psychotherapy services with the participant present must: (5-8-09)~~

~~i. Be face-to-face with at least one (1) family member present in addition to the participant; (5-8-09)~~

~~ii. Focus the treatment services on goals identified in the participant's individualized treatment plan; and (5-8-09)~~

~~iii. Utilize an evidence-based treatment model. (5-8-09)~~

~~b. Family psychotherapy without the participant present must: (5-8-09)~~

~~i. Be face-to-face with at least one (1) family member present; (5-8-09)~~

~~ii. Focus the services on the participant; and (5-8-09)~~

- iii. Utilize an evidence-based treatment model. (5-8-09)
- ~~06. Emergency Psychotherapy Services. Individual emergency psychotherapy services can be provided by qualified clinic staff at any time. (5-8-09)~~
- ~~a. Emergency services provided to an eligible participant prior to the completion of a comprehensive diagnostic assessment must be fully documented in the participant's medical record; and (3-29-12)~~
- ~~b. Each emergency service will be counted as a unit of service and part of the allowable limit per participant unless the contact results in hospitalization. Provider agencies may submit claims for the provision of psychotherapy in emergency situations even when contact does not result in the hospitalization of the participant. (3-30-07)~~
- ~~07. Pharmacological Management. Pharmacological management is a reimbursable service when consultations are provided by a physician or other practitioner of the healing arts within the scope of practice defined in their license in direct contact with the participant. (5-8-09)~~
- ~~a. Consultation must be for the purpose of prescribing, monitoring, and/or administering medication as part of the participant's individualized treatment plan; and (5-8-09)~~
- ~~b. Pharmacological management, if provided, must be specified on the participant's individualized treatment plan and must include the frequency and duration of the treatment. (5-8-09)~~
- ~~08. Nursing Services. Nursing services are reimbursable when physician ordered and supervised, and included as part of the participant's individualized treatment plan. (5-8-09)~~
- ~~a. Licensed and qualified nursing personnel can supervise, monitor, and administer medication within the limits of the Nursing Practice Act, Section 54-1402, Idaho Code; and (3-30-07)~~
- ~~b. The frequency and duration of the treatment must be specified on the participant's individualized treatment plan. (3-30-07)~~
- ~~09. Limits on Mental Health Clinic Services. Services provided by Mental Health Clinics are limited to twenty six (26) services per calendar year. This is for any combination of evaluation, diagnosis and treatment services. A total of four (4) hours per year is the maximum time allowed for diagnostic assessment services. Psychological and neuropsychological 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)~~
- ~~10. Occupational Therapy Services. Occupational therapy services are reimbursable when included as part of the participant's individualized treatment plan. Agency staff may deliver these services if they are an occupational therapist licensed in accordance with IDAPA 22.01.09, "Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants." The practice of occupational therapy encompasses the evaluation, consultation, and treatment of individuals whose abilities to cope with the tasks of daily living are threatened or impaired. It includes a treatment program through the use of specific techniques that enhance functional performance and includes evaluation or assessment of the participant's: (5-8-09)~~
- ~~a. Self-care, functional skills, cognition, and perception; (5-8-09)~~
- ~~b. Sensory and motor performance; (5-8-09)~~
- ~~c. Play skills, vocational, and prevocational capacities; and (5-8-09)~~
- ~~d. Need for adaptive equipment. (5-8-09)~~

**01. Community-Based Outpatient Behavioral Health Services.** The Community-Based Outpatient Behavioral Health Services included in the Idaho Behavioral Health Plan (IBHP) are medically necessary rehabilitation services that evaluate the need for and provide therapeutic and rehabilitative treatment to minimize symptoms of mental illness and substance use disorders and restore independent functioning. These services include: (9-1-13)T

- a.** Assessments and Planning; (9-1-13)T
- b.** Psychological and Neurological Testing; (9-1-13)T
- c.** Psychotherapy (Individual, Group, and Family); (9-1-13)T
- d.** Pharmacologic Management; (9-1-13)T
- e.** Partial Care Treatment; (9-1-13)T
- f.** Behavioral Health Nursing; (9-1-13)T
- g.** Drug Screening; (9-1-13)T
- h.** Community-Based Rehabilitation; (9-1-13)T
- i.** Substance Use Disorder Treatment Services; and (9-1-13)T
- j.** Case Management. (9-1-13)T

**02. Prior Authorization.** Some behavioral health services may require prior authorization from the IBHP contractor. (9-1-13)T

**710. MENTAL OUTPATIENT BEHAVIORAL HEALTH CLINIC SERVICES: WRITTEN INDIVIDUALIZED TREATMENT PLAN PROVIDER QUALIFICATIONS.**

~~A written individualized treatment plan is a medically ordered plan of care. An individualized treatment plan must be developed and implemented for each participant receiving mental health clinic services. Treatment planning is reimbursable if conducted by a qualified professional identified in Subsection 715.03 of these rules. The IBHP services are delivered by network providers who are enrolled with the contractor and meet reimbursement, quality, and utilization standards. All community-based outpatient behavioral health service providers are subject to the limitations of practice imposed by state law, federal regulations, and by the various state boards that regulate professional competency requirements, and in accordance with applicable Department rules. The contractor will enter into agreements with enrolled providers to provide the services under the IBHP. These agreements will include the reimbursement methodology agreed upon by the contractor and Department.~~ (3-29-12)(9-1-13)T

~~**01. Individualized Treatment Plan Development.** The individualized treatment plan must be developed by the following: (3-30-07)~~

- ~~**a.** The treatment staff providing the services; and (5-8-09)~~
- ~~**b.** The participant, if capable, and his parent or legal guardian. The participant and his parent or legal guardian may also choose others to participate in the development of the plan. (5-8-09)~~

~~**02. Individualized Treatment Plan Requirements.** An individualized treatment plan must include, at a minimum, the following: (3-30-07)~~

- ~~**a.** Statement of the overall goals as identified by the participant or his parent or legal guardian and concrete, measurable treatment objectives to be achieved by the participant, including time frames for completion. The goals and objectives must be individualized, and must reflect the choices of the participant or his parent or legal guardian. The goals and objectives must address the emotional, behavioral, and skill training needs identified by the~~

~~participant or his parent or legal guardian through the intake and assessment process. The tasks must be specific to the type of modality used and must specify the frequency and anticipated duration of therapeutic services. (5-8-09)~~

- ~~b. Documentation of who participated in the development of the individualized treatment plan. (3-30-07)~~
- ~~i. The authorizing physician must sign and date the plan within thirty (30) calendar days of the initiation of treatment. (3-30-07)~~
- ~~ii. The participant, when able, and his parent or legal guardian must sign the treatment plan indicating their agreement with service needs identified and their participation in its development. If these signatures indicating participation in the development of the treatment plan are not obtained, then the agency must document in the participant's record the reason the signatures were not obtained, including the reason for the participant's refusal to sign. A copy of the treatment plan must be given to the participant and his parent or legal guardian. (5-8-09)~~
- ~~iii. Other individuals who participated in the development of the treatment plan must sign the plan. (3-30-07)~~
- ~~iv. The author of the treatment plan must sign and date the plan and include his title and credentials. (5-8-09)~~
- ~~e. The treatment plan must be created in direct response to the findings of the assessment process. (3-29-12)~~
- ~~d. The treatment plan must include a prioritized list of issues for which treatment is being sought, and the type, frequency, and duration of treatment estimated to achieve all objectives based on the ability of the participant to effectively utilize services. (5-8-09)~~
- ~~e. Tasks that are specific, time limited activities and interventions designed to accomplish the objectives in the individualized treatment plan that are recommended by the participant's interdisciplinary team and agreed to by the participant or his parent or legal guardian. Each task description must specify the anticipated place of service, the frequency of services, the type of service, and the person(s) responsible to provide the service. (5-8-09)~~
- ~~f. Discharge criteria and aftercare plans must also be identified on the treatment plan. (5-8-09)~~

~~**03. Treatment Plan Reviews.** The agency staff must conduct intermittent treatment plan reviews when medically necessary. The intermittent treatment plan reviews must be conducted with the participant or his legal guardian at least every one hundred twenty (120) days. During the reviews, the agency staff providing the services, the participant, and any other members of the participant's interdisciplinary team as identified by the participant or his legal guardian must review the progress the participant has made on objectives and identify objectives that may be added, amended, or deleted from the individualized treatment plan. The attendees of the treatment plan review are determined by the participant or his legal guardian and agency staff providing the services. (5-8-09)~~

~~**04. Physician Review of Treatment Plan.** Each individualized treatment plan must be reviewed, updated, and signed by a physician at least annually. Changes in the types, duration, or amount of services that are determined during treatment plan reviews must be reviewed and signed by a physician. Projected dates for the participant's reevaluation and the revision of the individualized treatment plan must be recorded on the treatment plan. (3-29-12)~~

~~**05. Continuation of Services.** Continuation of services after the first year must be based on documentation of the following: (3-30-07)~~

- ~~a. Description of the ways the participant has specifically benefited from mental health services, and why he continues to need additional mental health services; and (5-8-09)~~
- ~~b. The participant's progress toward the achievement of therapeutic goals that would eliminate the need for the service to continue. (3-30-07)~~

**711. MENTAL OUTPATIENT BEHAVIORAL HEALTH CLINIC SERVICES: EXCLUDED SERVICES NOT REIMBURSABLE UNDER MEDICAID PROCEDURAL REQUIREMENTS.**

Providers must enroll in the IBHP with the contractor and meet both the credentialing and quality assurance guidelines of the contractor. (9-1-13)T

~~01. **Inpatient Medical Facilities.** Medicaid will not pay for mental health clinic services rendered to participants residing in inpatient medical facilities, including nursing homes, hospitals, or public institutions defined in 42 CFR 435.1009; or~~ (5-8-09)

~~02. **Non-Reimbursable.** The Department will not reimburse a service unless the participant's medical record includes the signature and credential of the professional staff providing the therapy or participant contact, the length of the session, and the date of the contact.~~ (5-8-09)

~~03. **Non-Eligible Staff.** Any treatment or contact provided as a result of an individualized treatment plan that is performed by any staff other than those qualified to deliver services under Subsection 715.03 of these rules is not eligible for reimbursement by the Department.~~ (5-8-09)

~~04. **Recoupment.** If a record is determined not to meet minimum requirements as set forth herein, any payments made on behalf of the participant are subject to recoupment.~~ (3-30-07)

01. **Administer IBHP.** The contractor is responsible for administering the IBHP, including: eligibility verification, management of behavioral health service provision, behavioral health claims processing, payments to providers, data reporting, utilization management, and customer service. (9-1-13)T

02. **Authorization.** The contractor is responsible for authorization of covered behavioral health services that require authorization prior to claim payment. (9-1-13)T

03. **Complaints, Grievances, and Appeals.** Complaints, grievances, and appeals are handled through a process between the contractor and Department that is in compliance with state and federal requirements. Participants must utilize the complaint, grievance, and appeal process required by the contractor prior to initiating an administrative appeal with the Department. (9-1-13)T

**~~712. MENTAL HEALTH CLINIC SERVICES: CREDENTIALING RESPONSIBILITIES OF THE DEPARTMENT.~~**

~~01. **Reimbursement.** A mental health clinic must be designated as credentialed or provisionally credentialed in order to receive Medicaid reimbursement for services. Any agency that fails to achieve or maintain credentialed status will have its Medicaid provider agreement terminated.~~ (5-8-09)

~~02. **Application.** All existing providers and new provider applicants must submit an application for credentialing that will be reviewed in order to proceed with the credentialing process and obtain the required credential by the Department. All initial applications will be responded to within thirty (30) calendar days. If the application is incomplete or is not in substantial compliance with these rules, the applicant must submit the additional information within ten (10) business days of receipt of notice for the application to be considered further. The application will be reviewed up to three (3) times. If the applicant has not provided the required information by the third submittal, then the application will be denied and the application will not be considered again for twelve (12) months.~~ (5-8-09)

~~03. **Temporary Credentialed Status.** In order for existing providers to be able to continue to provide services during initial development, the Department will grant a one-time temporary credential to all existing providers.~~ (5-8-09)

~~04. **New Providers.** New provider applicants will be required to submit a credentialing application and successfully complete the credentialing application process as a condition for Department approval as a Medicaid provider. If the new provider applicant successfully passes the application portion of credentialing, then a temporary credential will be issued to the provider for up to one hundred eighty (180) days. Within the one hundred eighty (180)~~

~~days, an on-site review will be conducted. If the provider applicant is deemed to be in substantial compliance with these rules, then the temporary credential will be converted to a full credential. If the provider fails to be in substantial compliance, then the temporary credential will expire, credentialed status will be denied, and the provider applicant will not be considered for credentialing again for twelve (12) months.~~ (5-8-09)

~~**05. Elements of Credentialing.** The initial credentialing process consists of the application, self-study, and an on-site review for compliance with the requirements of these rules.~~ (5-8-09)

~~**a.** The application provides documentation the agency has met the criteria set forth in these rules. Elements contained in the application include:~~ (5-8-09)

~~i. Ownership and governance;~~ (5-8-09)

~~ii. Physician contract for medical and clinical oversight and supervision;~~ (5-8-09)

~~iii. Proof of appropriate insurance;~~ (5-8-09)

~~iv. Appropriate employment and contract documentation; and~~ (5-8-09)

~~v. Copies of relevant licenses and transcripts.~~ (5-8-09)

~~**b.** The self-study provides the agency the opportunity to formally document policies and procedures that demonstrate compliance with Sections 713 and 714 of these rules.~~ (5-8-09)

~~**e.** The on-site review provides the Department the opportunity to observe service delivery and ensure the agency actually implements and complies with their policies and procedures.~~ (5-8-09)

~~**06. Deemed Status.** Providers accredited by private accreditation agencies, (i.e., the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) or Commission on the Accreditation of Rehabilitation Facilities (CARF)), will be exempt from credentialing processes. Other accrediting agencies may be determined acceptable upon review by the Department. Providers must submit to the Department appropriate documentation of their private accreditation status.~~ (5-8-09)

~~**07. Expiration and Renewal of Credentialed Status.** Credentials issued under these rules will be issued for a period up to three (3) years. Unless denied or revoked, the agency's credential will expire on the date designated by the Department. No later than ninety (90) days before expiration, an agency must apply for renewal of credentials. A site review may be conducted by the Department for renewal applications.~~ (5-8-09)

~~**08. Provisional Credentialed Status.** If a new or renewal applicant is found deficient in one (1) or more of the requirements for credentialing, but does not have deficiencies that jeopardize the health and safety of the participants or substantially affect the provider's ability to provide services, a provisional credential may be issued. Provisional credentials will be issued for a period not to exceed one hundred eighty (180) days. During that time, the Department will determine whether the deficiencies have been corrected. If so, then the agency will be credentialed. If not, then the credential will be denied or revoked.~~ (3-30-07)

~~**09. Denial or Revocation of Credentialed Status.** The Department may deny or revoke credentials when conditions exist that endanger the health, safety, or welfare of any participant or when the agency is not in substantial compliance with these rules. Additional causes for denial or revocation of credentials include the following:~~ (5-8-09)

~~**a.** The provider agency or provider agency applicant has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining credentialed status;~~ (3-30-07)

~~**b.** The provider agency or provider agency applicant has been convicted of fraud, gross negligence, abuse, assault, battery or exploitation;~~ (5-8-09)

~~**e.** The provider agency or provider agency applicant has been convicted of a criminal offense within~~

~~the past five (5) years other than a minor traffic violation or similar minor offense;~~ (3-30-07)

~~d. The provider agency or provider agency applicant has been denied or has had revoked any health facility license or certificate;~~ (3-30-07)

~~e. A court has ordered that any provider agency owner or provider agency applicant must not operate a health facility, residential care or assisted living facility, or certified family home;~~ (3-30-07)

~~f. Any owners, employees, or contractors of the provider agency or provider agency applicant are listed on the statewide Child Abuse Registry, Adult Protection Registry, Sexual Offender Registry, or Medicaid exclusion lists;~~ (3-30-07)

~~g. The provider agency or provider agency applicant is directly under the control or influence, whether financial or other, of any person who is described in Subsections 712.09.a. through 712.09.f. of this rule.~~ (3-30-07)

~~10. **Procedure for Appeal of Denial or Revocation of Credentials.** Immediately upon denial or revocation of credentials, the Department will notify the applicant or provider in writing by certified mail or by personal service of its decision, the reason for its decision, and how to appeal the decision. The appeal is subject to the hearing provisions in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings."~~ (3-30-07)

**713. ~~MENTAL HEALTH CLINIC SERVICES: RESPONSIBILITIES OF THE DEPARTMENT.~~**

~~The Department will administer the provider agreement for the provision of mental health clinic services and is responsible for the following tasks:~~ (3-29-12)

~~01. **Prior Authorization Process.** Reimbursement for specific services that require prior authorization will be authorized from the date the required documentation is received by the Department. The Department will complete the prior authorization process within ten (10) working days from the date all the required information is received from the provider. The specific documentation that is required for prior authorization is dependent on the request for additional services. The Department must authorize the number of hours and type of services, as specifically required in these rules, which could be reasonably expected to address the participant's needs in relation to those services.~~ (3-29-12)

~~02. **Notice of Decision.** At the point the Department makes a decision that a participant is ineligible for specific services, a notice of decision citing the reason(s) the participant is ineligible for those services must be issued by the Department. The notice of decision must be sent to the adult participant and a copy to his legal guardian, if any. When the participant is a minor child, the notice of decision must be sent to the minor child's parent or legal guardian.~~ (3-29-12)

~~03. **Responding to Requests for Services.** When the Department receives from a provider a written request for services that must be prior authorized, the Department must review the request and either approve or deny the request within ten (10) working days of receipt. A clear rationale for the increase in hours or change in service type must be included with the request.~~ (3-29-12)

**714. ~~MENTAL HEALTH CLINIC SERVICES: PROVIDER AGENCY REQUIREMENTS.~~**

~~Each agency that enters into a provider agreement with the Department for the provision of mental health clinic services must meet the following requirements:~~ (3-30-07)

~~01. **Healthy Connections Referral.** Provider agencies must obtain a Healthy Connections referral if the participant is enrolled in the Healthy Connections program and document the referral in the participant's medical record. Provider agencies must document compliance with the requirements under Subsection 708.01 of these rules.~~ (5-8-09)

~~02. **Effectiveness of Services.** Effectiveness of services, as measured by a participant's achievement of his plan objectives, must be monitored by the provider and changes to the individualized treatment plan must be initiated when service needs change or interventions are shown to be ineffective. These measures must be included in~~

~~the participant's treatment plan review. (5-8-09)~~

~~**03. Staff to Participant Ratio.** The following treatment staff to participant ratios for group treatment services must be observed: (5-8-09)~~

~~**a.** For children under four (4) years of age, the ratio must be 1:1. No group work is allowed. (5-8-09)~~

~~**b.** For children four (4) to twelve (12) years of age, the ratio must be 1:6 for groups. Group size must not exceed twelve (12) participants. (5-8-09)~~

~~**c.** For children over twelve (12) years of age, the ratio must be 1:10 for groups. Group size must not exceed twelve (12) participants. (5-8-09)~~

~~**04. Family Participation Requirement.** The following standards must be observed for services provided to children: (5-8-09)~~

~~**a.** For a child under four (4) years of age, the child's parent or legal guardian should be actively involved by being present on the premises and available for consultation with the staff during the delivery of mental health services. The child's parent or legal guardian does not have to participate in the treatment session or be present in the room in which the service is being conducted; (5-8-09)~~

~~**b.** For a child four (4) to twelve (12) years of age, the child's parent or legal guardian should be actively involved. The child's parent or legal guardian does not have to participate in the treatment session but must be available for consultation with the staff providing the service; (5-8-09)~~

~~**c.** For a child over twelve (12) years of age, the child's parent or legal guardian should be involved, as appropriate. If the interdisciplinary team recommends that the child's parent or legal guardian not be involved in any aspect of the treatment, then the reasons for excluding the child's parent or legal guardian must be documented in the medical record. (5-8-09)~~

~~**d.** For a child whose parent or legal guardian does not participate in the services, the provider must document efforts made to involve the parent or legal guardian and must make appropriate adjustments to the treatment plan to address the parent or legal guardian's lack of involvement. (5-8-09)~~

~~**e.** Nothing in these rules may interfere with compliance to provisions of Section 16-2428, Idaho Code, regarding confidentiality and disclosure of children's mental health information. (5-8-09)~~

~~**05. Mental Health Clinic.** Each location of the agency must meet the requirements under this rule. (3-30-07)~~

~~**06. Physician Requirement for Clinic Supervision.** In order to fulfill the requirement that the clinic be under the direction of a physician, the clinic must have a contract with the physician. (3-30-07)~~

~~**a.** The contract must specifically require that the physician spend as much time in the clinic as is necessary to assure that participants are receiving services in a safe and efficient manner in accordance with accepted standards of medical practice. (3-30-07)~~

~~**b.** The supervising physician of the clinic may also serve as the supervising physician of a participant's care. (3-30-07)~~

~~**07. Physician Requirement for Supervision of a Participant's Care.** Each participant's care must be under the supervision of a physician directly affiliated with the clinic. Documentation of the affiliation must be kept in the clinic location. The clinic may have as many physician affiliations as is necessary in order to meet the needs of the volume of participants served in that location. The physician who supervises a participant's care does not have to deliver this service at the clinic nor does the physician have to be present at the clinic when the participant receives services at the clinic. In order to fulfill the requirement for physician supervision of a participant's care, the following conditions must also be met: (3-30-07)~~

- ~~a. The clinic and the physician must enter into a formal arrangement in which the physician must assume professional responsibility for the services provided; (3-30-07)~~
- ~~b. The physician must see the participant at least once annually to determine the medical necessity and appropriateness of clinic services; (5-8-09)~~
- ~~c. The physician must review and sign the individualized treatment plan as an indicator that the services are medically necessary and prescribed; and (5-8-09)~~
- ~~d. The physician must review and sign all updates to the individualized treatment plan that involve changes in the types or amounts of services and must sign all intermittent treatment plan reviews that represent substantial changes in the goals, objectives, or services. (5-8-09)~~
- ~~08. **Assessment.** All treatment in mental health clinics must be based on one (1) or more assessments of the participant's needs, required under Section 709.03 of these rules and provided under the direction of a licensed physician. (5-8-09)~~
- ~~09. **Criminal History Checks.** (3-30-07)~~
- ~~a. The agency must verify that all employees, subcontractors, or agents of the agency providing direct care or clinical services have complied with IDAPA 16.05.06, "Criminal History and Background Checks." (3-30-07)~~
- ~~b. Once an employee, subcontractor, or agent of the agency has met the requirements specified in Subsection 009.02.a. of these rules, he may begin working for the agency on a provisional basis. (3-30-07)~~
- ~~c. Once an employee, subcontractor, or agent of the agency has received a criminal history clearance, any additional criminal convictions must be reported to the Department when the agency learns of the conviction. (3-30-07)~~
- ~~10. **Agency Employees and Subcontractors.** Employees and subcontractors of the agency are subject to the same conditions, restrictions, qualifications and rules as the agency. (3-30-07)~~
- ~~11. **Supervision.** The agency must ensure that staff providing clinical services are supervised according to the following guidelines: (3-30-07)~~
- ~~a. Standards and requirements for supervision under the rules of the Idaho Bureau of Occupational Licenses and the Idaho State Board of Medicine must be met; (5-8-09)~~
- ~~b. Case specific supervisory contact must be made weekly, at a minimum, with staff for whom supervision is a requirement; and (3-30-07)~~
- ~~c. Documentation of supervision must be maintained by the agency and be available for review by the Department. (3-30-07)~~
- ~~12. **Restraints and Seclusion.** (5-8-09)~~
- ~~a. Restraints and seclusion must not be employed under any circumstances except when an agency staff person employs physical holds as an emergency response to assault or aggression or other immediate safety risks in accordance with the following requirements in Subsections 714.12.a.i. through 714.12.a.iii.: (5-8-09)~~
- ~~i. The agency must have an accompanying policy and procedure that addresses the use of the such holds. (5-8-09)~~
- ~~ii. The physical holds employed must be a part of a nationally recognized non violent crisis intervention model. (5-8-09)~~

~~iii. The staff person who employs the hold technique(s) must have evidence in his personnel record of current certification in the method. (5-8-09)~~

~~b. Provider agencies must develop policies that address the agency's response by staff to emergencies involving assault or aggression or other immediate safety risks. All policies and procedures must be consistent with licensure requirements, federal, state, and local laws, and be in accordance with accepted standards of healthcare practice. (5-8-09)~~

~~13. Continuing Education. The agency must ensure that all staff complete twenty (20) hours of continuing education annually in the field in which they are licensed. Documentation of the continuing education hours must be maintained by the agency and be available for review by the Department. Nothing in these rules will affect professional licensing continuing education standards and requirements set by the Bureau of Occupational Licenses. (3-30-07)~~

~~14. Ethics. (3-30-07)~~

~~a. The provider must adopt, adhere to and enforce a Code of Ethics on its staff who are providing Medicaid reimbursable services. The Code of Ethics must be similar to or patterned after one (1) of the following: (3-30-07)~~

~~i. US Psychiatric Rehabilitation Association Code of Ethics found at [https://uspra.ipower.com/Certification/Practitioner\\_Code\\_of\\_Ethics.pdf](https://uspra.ipower.com/Certification/Practitioner_Code_of_Ethics.pdf); (3-30-07)~~

~~ii. National Association of Social Workers Code of Ethics found at <http://www.naswde.org/pubs/code/default.asp>; (3-30-07)~~

~~iii. American Psychological Association Code of Ethics found at <http://www.apa.org/ethics/code/index.aspx>; (3-30-07)~~

~~iv. American Counseling Association Code of Ethics found at <http://www.counseling.org/Resources/CodeOfEthics/TP/Home/CT2.aspx>; (3-30-07)~~

~~v. Marriage and Family Therapists Code of Ethics found at [http://www.aamft.org/imis15/content/legal\\_ethics/code\\_of\\_ethics.aspx](http://www.aamft.org/imis15/content/legal_ethics/code_of_ethics.aspx); (3-30-07)~~

~~b. The Provider must develop a schedule for providing ethics training to its staff. (3-30-07)~~

~~e. The ethics training schedule must provide that new employees receive the training during their first year of employment, and that all staff receive ethics training no less than four (4) hours every four (4) years thereafter. (3-30-07)~~

~~d. Evidence of the Agency's Code of Ethics, the discipline(s) upon which it is modeled, and each staff member's training on the Code must be submitted to the Department upon request. (3-30-07)~~

~~15. Building Standards For Mental Health Clinics. (3-30-07)~~

~~a. Accessibility. Mental health clinic service providers must be responsive to the needs of the service area and persons receiving services and accessible to persons with disabilities as defined in Section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act, and the uniform federal accessibility standard. (3-30-07)~~

~~b. Environment. Clinics must be designed and equipped to meet the needs of each participant including, but not limited to, factors such as sufficient space, equipment, lighting and noise control. (3-30-07)~~

~~e. Capacity. Clinics must provide qualified staff as listed in Subsection 715.01 of these rules to meet a staff to participant ratio required under Subsection 714.03 of this rule that ensures safe, effective and clinically~~

- ~~appropriate interventions. (5-8-09)~~
- ~~d. Fire and Safety Standards. (3-30-07)~~
- ~~i. Clinic facilities must meet all local and state codes concerning fire and life safety. The owner/operator must have the facility inspected at least annually by the local fire authority and successfully pass the inspection. In the absence of a local fire authority, such inspections must be obtained from the Idaho State Fire Marshall's office. A copy of the inspection must be made available upon request and must include documentation of any necessary corrective action taken on violations cited; and (5-8-09)~~
- ~~ii. The clinic facility must be structurally sound and must be maintained and equipped to assure the safety of participants, employees and the public; and (3-30-07)~~
- ~~iii. In clinic facilities where natural or man made hazards are present, suitable fences, guards or railings must be provided to protect participants; and (3-30-07)~~
- ~~iv. Clinic facilities must be kept free from the accumulation of weeds, trash and rubbish; and (3-30-07)~~
- ~~v. Portable heating devices are prohibited except units that have heating elements that are limited to not more than two hundred twelve (212F) degrees Fahrenheit. The use of unvented, fuel-fired heating devices of any kind are prohibited. All portable space heaters must be U.L. approved as well as approved by the local fire or building authority; and (3-30-07)~~
- ~~vi. Flammable or combustible materials must not be stored in the clinic facility; and (3-30-07)~~
- ~~vii. All hazardous or toxic substances must be properly labeled and stored under lock and key; and (3-30-07)~~
- ~~viii. Water temperatures in areas accessed by participants must not exceed one hundred twenty (120) degrees Fahrenheit; and (3-30-07)~~
- ~~ix. Portable fire extinguishers must be installed throughout the clinic facility. Numbers, types and location must be directed by the applicable fire authority noted in Subsection 714.15.d. of this rule; and (5-8-09)~~
- ~~x. Electrical installations and equipment must comply with all applicable local or state electrical requirements. In addition, equipment designed to be grounded must be maintained in a grounded condition and extension cords and multiple electrical outlet adapters must not be utilized unless U.L. approved and the numbers, location, and use of them are approved in writing by the local fire or building authority. (3-30-07)~~
- ~~xi. There must be a telephone available on the premises for use in the event of an emergency. Emergency telephone numbers must be posted near the telephone or where they can be easily accessed; and (3-30-07)~~
- ~~xii. Furnishings, decorations or other objects must not obstruct exits or access to exits. (3-30-07)~~
- ~~e. Emergency Plans and Training Requirements. (3-30-07)~~
- ~~i. Evacuation plans must be posted throughout the facility. Plans must indicate point of orientation, location of all fire extinguishers, location of all fire exits, and designated meeting area outside of building. (3-30-07)~~
- ~~ii. There must be written policies and procedures covering the protection of all persons in the event of fire or other emergencies; and (3-30-07)~~
- ~~iii. All employees must participate in fire and safety training upon employment and at least annually thereafter; and (3-30-07)~~

- ~~iv. All employees and partial care participants must engage in quarterly fire drills. At least two (2) of these fire drills must include evacuation of the building; and (3-30-07)~~
- ~~v. A brief summary of the fire drill and the response of the employees and partial care participants must be written and maintained on file. The summary must indicate the date and time the drill occurred, problems encountered and corrective action taken. (3-30-07)~~
- ~~f. Food Preparation and Storage. (3-30-07)~~
- ~~i. If foods are prepared in the clinic facility, they must be stored in such a manner as to prevent contamination and be prepared using sanitary methods. (3-30-07)~~
- ~~ii. Except during actual preparation time, cold perishable foods must be stored and served under forty five (45F) degrees Fahrenheit and hot perishable foods must be stored and served over one hundred forty (140F) degrees Fahrenheit. (3-30-07)~~
- ~~iii. Refrigerators and freezers used to store participant lunches and other perishable foods used by participants, must be equipped with a reliable, easily readable thermometer. Refrigerators must be maintained at forty five (45F) degrees Fahrenheit or below. Freezers must be maintained at zero (0F) to ten (10F) degrees Fahrenheit or below. (3-30-07)~~
- ~~iv. When meals are prepared or provided for by the clinic, meals must be nutritional. (3-30-07)~~
- ~~g. Housekeeping and Maintenance Services. (3-30-07)~~
- ~~i. The interior and exterior of the clinic facility must be maintained in a clean, safe and orderly manner and must be kept in good repair; and (3-30-07)~~
- ~~ii. Deodorizers cannot be used to cover odors caused by poor housekeeping or unsanitary conditions; and (3-30-07)~~
- ~~iii. All housekeeping equipment must be in good repair and maintained in a clean, safe and sanitary manner; and (3-30-07)~~
- ~~iv. The clinic facility must be maintained free from infestations of insects, rodents and other pests; and (3-30-07)~~
- ~~v. The clinic facility must maintain the temperature and humidity within a normal comfort range by heating, air conditioning, or other means. (3-30-07)~~
- ~~vi. Garbage will be disposed of in a sanitary manner. It must not be allowed to accumulate and must be placed in leak proof bags. (3-30-07)~~
- ~~h. Firearms. No firearms are permitted in the clinic facility. (3-30-07)~~
- ~~i. Plumbing. Restroom facilities must be maintained in good working order and available and accessible to participants while at the clinic in accordance with the Americans with Disabilities Act. This includes the presence of running water for operation of the toilet and washing hands. (3-30-07)~~
- ~~j. Lighting. Lighting levels must be maintained throughout the clinic facility which are appropriate to the service being provided. (3-30-07)~~
- ~~k. Drinking Water. Where the source is other than a public water system or commercially bottled, water quality must be tested and approved annually by the district health department. (3-30-07)~~

**715. ~~MENTAL HEALTH CLINIC SERVICES; AGENCY STAFF QUALIFICATIONS.~~**

~~01. **Staff Qualifications.** The mental health clinic must assure that each agency staff person delivering treatment services to Medicaid participants works within the scope of his license and has, at a minimum, one (1) or more of the following credentials: (5-8-09)~~

- ~~a. Licensed Psychiatrist; (3-30-07)~~
- ~~b. Licensed Physician or Licensed Practitioner of the healing arts; (3-30-07)~~
- ~~c. Licensed Psychologist; (3-30-07)~~
- ~~d. Psychologist Extender, registered with the Bureau of Occupational Licenses; (3-30-07)~~
- ~~e. Licensed Masters Social Worker; (3-30-07)~~
- ~~f. Licensed Clinical Social Worker; (3-30-07)~~
- ~~g. Licensed Social Worker; (3-30-07)~~
- ~~h. Licensed Clinical Professional Counselor; (3-30-07)~~
- ~~i. Licensed Professional Counselor; (3-30-07)~~
- ~~j. Licensed Marriage and Family Therapist; (3-30-07)~~
- ~~k. Licensed Associate Marriage and Family Therapist; (5-8-09)~~
- ~~l. Certified Psychiatric Nurse, (RN), as described in Subsection 707.13 of these rules; (5-8-09)~~
- ~~m. Licensed Professional Nurse, R.N.; or (3-30-07)~~
- ~~n. Licensed Occupational Therapist. (5-8-09)~~

~~02. **Staff Qualified to Deliver a Comprehensive Diagnostic Assessment.** A comprehensive diagnostic assessment is a reimbursable service when delivered by one (1) of the following licensed professionals: (5-8-09)~~

- ~~a. Psychiatrist; (5-8-09)~~
- ~~b. Physician; (5-8-09)~~
- ~~c. Practitioner of the healing arts; (5-8-09)~~
- ~~d. Psychologist; (5-8-09)~~
- ~~e. Clinical Social Worker; (5-8-09)~~
- ~~f. Clinical Professional Counselor; (5-8-09)~~
- ~~g. Licensed Marriage and Family Therapist; (5-8-09)~~
- ~~h. Certified Psychiatric Nurse, (RN), as described in Subsection 707.13 of these rules; (5-8-09)~~
- ~~i. Licensed Professional Counselor whose provision of diagnostic services is supervised as described in IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists"; (5-8-09)~~
- ~~j. Licensed Masters Social Worker whose provision of diagnostic services is supervised as described in IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners"; (5-8-09)~~

~~k. Licensed Associate Marriage and Family Therapist whose provision of diagnostic services is supervised as described in IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists"; or (5-8-09)~~

~~l. Psychologist Extender, registered with the Bureau of Occupational Licenses whose provision of diagnostic services is supervised as described in IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners." (5-8-09)~~

~~03. **Qualified Interdisciplinary Treatment Planning Staff.** The individualized treatment plan development is reimbursable if conducted by a qualified staff person who, at a minimum, has one (1) or more of the following qualifications: (5-8-09)~~

~~a. Licensed Psychologist; (3-30-07)~~

~~b. Psychologist Extender, registered with the Bureau of Occupational Licenses; (3-30-07)~~

~~c. Licensed Masters Social Worker; (5-8-09)~~

~~d. Licensed Clinical Social Worker; (5-8-09)~~

~~e. Certified Psychiatric Nurse, (RN); (3-30-07)~~

~~f. Licensed Clinical Professional Counselor; (5-8-09)~~

~~g. Licensed Professional Counselor; (5-8-09)~~

~~h. Licensed Physician or other licensed practitioner of the healing arts; (5-8-09)~~

~~i. Licensed Psychiatrist; (5-8-09)~~

~~j. Licensed Marriage and Family Therapist; (5-8-09)~~

~~k. Licensed Associate Marriage and Family Therapist; or (5-8-09)~~

~~l. Licensed Professional Nurse, RN. (5-8-09)~~

~~04. **Non-Qualified Staff.** Any delivery of evaluation, diagnostic service, or treatment designed by any person other than an agency staff person designated as qualified under Sections 709 or 715 of these rules, is not eligible for reimbursement under the Medicaid. (5-8-09)~~

~~05. **Staff Qualifications for Psychotherapy Services.** Licensed, qualified professionals providing psychotherapy services as set forth in Subsections 709.04 through 709.06 of these rules must have, at a minimum, one (1) or more of the following credentials: (5-8-09)~~

~~a. Licensed Psychiatrist; (3-30-07)~~

~~b. Licensed Physician; (3-30-07)~~

~~c. Licensed Psychologist; (3-30-07)~~

~~d. Licensed Clinical Social Worker; (3-30-07)~~

~~e. Licensed Clinical Professional Counselor; (3-30-07)~~

~~f. Licensed Marriage and Family Therapist; (3-30-07)~~

- ~~g. Certified Psychiatric Nurse (RN), as described in Subsection 707.09 of these rules; (5-8-09)~~
- ~~h. Licensed Professional Counselor whose provision of psychotherapy is supervised in compliance with IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists"; (5-8-09)~~
- ~~i. 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"; (5-8-09)~~
- ~~j. Licensed Associate Marriage and Family Therapist whose provision of psychotherapy is supervised as described in IDAPA 25.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists"; or (5-8-09)~~
- ~~k. A Psychologist Extender, registered with the Bureau of Occupational Licenses whose provision of diagnostic services is supervised in compliance with IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners." (5-8-09)~~
- ~~06. Support Staff. For the purposes of this rule, support staff is any person who is not a professional listed in Subsection 715.01 of this rule. The agency may elect to employ support staff to provide support services to participants. Such support services may include providing transportation, cooking and serving meals, cleaning and maintaining the physical plant, or providing general, non-professional supervision. Support staff must not deliver or assist in the delivery of services that are reimbursable by Medicaid. (5-8-09)~~

~~716. MENTAL HEALTH CLINIC SERVICES: RECORD REQUIREMENTS FOR PROVIDERS.~~

- ~~01. Assessments. A comprehensive diagnostic assessment must be contained in all participant medical records. (3-29-12)~~
- ~~02. Informed Consent. The agency must ensure that participants who receive services through the agency have obtained informed consent from the participant or his legal guardian indicating agreement with all of the elements on the individualized treatment plan including choice of the provider agency, designated services, times, dates, frequencies, objectives, goals, and exit criteria. For a minor child, informed consent must be obtained from the minor's parent or legal guardian. (5-8-09)~~
- ~~03. Documentation. All assessments and testing evaluations must be in written form, dated, and fully signed to certify when completed and by whom, and retained in the participant's file for documentation purposes. (3-29-12)~~
- ~~04. Data. All data gathered must be directed towards formulation of a written diagnosis, problem list, and individualized treatment plan which specifies the type, frequency, and anticipated duration of treatment. (3-30-07)~~
- ~~05. Mental Health Clinic Record Keeping Requirements. (3-30-07)~~
- ~~a. Maintenance. Each mental health clinic will be required to maintain records on all services provided to Medicaid participants. (5-8-09)~~
- ~~b. Record Contents. The records must contain the current individualized treatment plan ordered by a physician and must meet the requirements as set forth in Section 710 of this rule. (5-8-09)~~
- ~~e. Requirements. The records must: (3-30-07)~~
- ~~i. Specify the exact type of treatment provided; and (3-30-07)~~
- ~~ii. Who the treatment was provided by; and (3-30-07)~~
- ~~iii. Specify the duration of the treatment and the time of day delivered; and (3-30-07)~~

~~iv. Contain detailed records which outline exactly what occurred during the therapy session or participant contact documented by the person who delivered the service; and (3-30-07)~~

~~v. Contain the legible, dated signature, with degree credentials listed, of the staff member performing the service. (3-30-07)~~

~~**717. MENTAL HEALTH CLINIC SERVICES: PROVIDER REIMBURSEMENT.**~~

~~**01. Services.** Payment for clinic services will be made directly to the clinic and will be in accordance with rates established by the Department for the specific services. (3-30-07)~~

~~**02. Payment in Full.** Each provider of clinic services must accept the Department's payment for such services as payment in full and must not bill the medical assistance participant for any portion of any charges incurred for the cost of his care. (3-30-07)~~

~~**03. Third Party.** All available third party payment resources, such as Medicare and private insurance, must be exhausted before the Department is billed for services provided to an eligible participant. Proof of billing other third party payers will be required by the Department. (3-30-07)~~

~~**04. Injections.** Payment for the administration of injections must be in accordance with rates established by the Department. (3-30-07)~~

~~**718. MENTAL HEALTH CLINIC SERVICES: QUALITY OF SERVICES.**~~

~~The Department must monitor the quality and outcomes of mental health clinic services provided to participants, in coordination with the Divisions of Medicaid, Management Services, Family and Community Services (FACS), and Behavioral Health. (3-30-07)~~

~~**712 -- 719. (RESERVED)**~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**850. SCHOOL-BASED SERVICE: DEFINITIONS.**

**01. Activities of Daily Living (ADL).** The performance of basic self-care activities in meeting an individual's needs for sustaining him in a daily living environment, including, but not limited to, bathing, washing, dressing, toileting, grooming, eating, communication, continence, mobility, and associated tasks. (3-30-07)

**02. Educational Services.** Services that are provided in buildings, rooms, or areas designated or used as a school or as educational facilities, which are provided during the specific hours and time periods in which the educational instruction takes place in the normal school day and period of time for these students, and which are included in the individual educational plan for the participant. (3-29-10)

**03. School-Based Services.** School-based services are health-related and rehabilitative services provided by Idaho public school districts and charter schools under the Individuals with Disabilities Education Act (IDEA). (7-1-13)

**04. The Psychiatric Rehabilitation Association (PRA).** An association that works to improve and promote the practice and outcomes of psychiatric rehabilitation and recovery. The PRA also maintains a certification program to promote the use of qualified staff to work for individuals with mental illness. <https://netforum.avectra.com/eWeb/StartPage.aspx?Site=USPRA>. (9-1-13)T

**045. Practitioner of the Healing Arts.** A physician's assistant, nurse practitioner, or clinical nurse specialist who is licensed and approved by the state of Idaho to make such recommendations or referrals for Medicaid

services. (7-1-13)

**06. Serious Mental Illness (SMI).** In accordance with 42 CFR 483.102(b)(1), a person with SMI: (9-1-13)T

**a.** Currently or at any time during the year, must have had a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet the diagnostic criteria specified in the DSM-V; and (9-1-13)T

**b.** Must have a functional impairment that substantially interferes with or limits one (1) or more major life activities. Functional impairment is defined as difficulties that substantially interfere with or limit role functioning with an individual's basic daily living skills, instrumental living skills, and functioning in social, family, vocational or educational contexts. Instrumental living skills include maintaining a household, managing money, getting around the community, and taking prescribed medication. An adult who met the functional impairment criteria during the past year without the benefit of treatment or other support services is considered to have a serious mental illness. (9-1-13)T

**07. Serious and Persistent Mental Illness (SPMI).** A participant must meet the criteria for SMI, have at least one (1) additional functional impairment, and have a diagnosis under DSM-V with one (1) of the following: Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Borderline Personality Disorder. The only Not Otherwise Specified (NOS) diagnosis included is Psychotic Disorder NOS for a maximum of one hundred twenty (120) days without a conclusive diagnosis. (9-1-13)T

**851. SCHOOL-BASED SERVICE: PARTICIPANT ELIGIBILITY.**

To be eligible for medical assistance reimbursement for covered services, school districts and charter schools must ensure the student is: (7-1-13)

**01. Medicaid Eligible.** Eligible for Medicaid and the service for which the school district or charter school is seeking reimbursement; (7-1-13)

**02. School Enrollment.** Enrolled in an Idaho school district or charter school; (7-1-13)

**03. Age.** Twenty-one (21) years of age or younger and the semester in which his twenty-first birthday falls is not finished; (3-30-07)

**04. Educational Disability.** Identified as having an educational disability under the Department of Education standards in IDAPA 08.02.03, "Rules Governing Thoroughness." (7-1-13)

**05. Inpatients in Hospitals or Nursing Homes.** Payment for school-related services will not be provided to students who are inpatients in nursing homes or hospitals. Health-related services for students residing in an ICF/ID are eligible for reimbursement. (7-1-13)

~~**06. Service Specific Eligibility.** Psychosocial Rehabilitation (PSR), Behavioral Intervention, Behavioral Consultation, and Personal Care Services (PCS) have additional eligibility requirements. (7-1-13)~~

~~**a.** Psychosocial Rehabilitation (PSR). To be eligible for PSR, the student must meet the PSR eligibility criteria for children in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 112, or the Department of Education's criteria for emotional disturbance found in the Idaho Special Education Manual available online at the Idaho Department of Education website, [http://www.sde.idaho.gov/site/special\\_edu/](http://www.sde.idaho.gov/site/special_edu/). Districts are to coordinate the delivery of services if the student is receiving PSR services authorized by the Department. (7-1-13)~~

~~**b.** Behavioral Intervention and Behavioral Consultation. To be eligible for behavioral intervention and behavioral consultation services, the student must: (7-1-13)~~

~~**i.** Meet the criteria for developmental disabilities as identified in Section 66-402(5), Idaho Code, and have documentation to support eligibility using the standards under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 501; and (7-1-13)~~

~~ii. Exhibit maladaptive behaviors that include frequent disruptive behaviors, aggression, self injury, criminal or dangerous behavior evidenced by a score of at least one point five (1.5) standard deviations from the mean in at least two (2) behavior domains and by at least two (2) raters familiar with the student, or at least two (2) standard deviations from the mean in one (1) composite score that consists of at least three (3) behavior domains by at least two (2) raters familiar with the student, on a standardized behavioral assessment approved by the Department; and (7-1-13)~~

~~iii. Have maladaptive behaviors that interfere with the student's ability to access an education. (7-1-13)~~

~~e. Personal Care Services. To be eligible for personal care services (PCS) the student must have a completed children's PCS assessment approved by the Department. To determine eligibility for PCS, the assessment results must find the student requires PCS due to a medical condition that impairs the physical or functional abilities of the student. (7-1-13)~~

**852. SCHOOL-BASED SERVICE: SERVICE-SPECIFIC PARTICIPANT ELIGIBILITY.**

Psychosocial Rehabilitation (PSR), Behavioral Intervention, Behavioral Consultation, and Personal Care Services (PCS) have additional eligibility requirements. (9-1-13)T

**01. Psychosocial Rehabilitation (PSR).** To be eligible for PSR, the student participant must meet one (1) of the following: (9-1-13)T

**a.** A student who is a child under eighteen (18) years of age must meet the Serious Emotional Disturbance (SED) eligibility criteria for children in accordance with the Children's Mental Health Services Act, Section 16-2403, Idaho Code, and have documented evidence of a history and physical examination that has been completed within the last twelve (12) months prior to the initiation of mental health services. A child who meets the criteria for SED must experience a substantial impairment in functioning. The 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. 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: Self-harmful Behavior, Moods/Emotions, or Thinking. In addition, the child must have obtained a comprehensive diagnostic assessment that indicates: (9-1-13)T

i. The service represents the least restrictive setting and other services have failed or are not appropriate for the clinical needs of the child; (9-1-13)T

ii. The service can reasonably be expected to improve the child's condition or prevent further regression so that the current level of care is no longer necessary or may be reduced; and (9-1-13)T

iii. Verification that the child is not at immediate risk of self-harm or harm to others who cannot be stabilized, not in need of more restrictive care or inpatient care, and not over the age of eighteen (18). (9-1-13)T

**b.** A student who is eighteen (18) years old or older must meet the criteria of Serious and Persistent Mental Illness (SPMI). This requires that a student participant meet the criteria for SMI, as described in 42 CFR 483.102(b)(1), have at least one (1) additional functional impairment, and have a diagnosis under DSM-V, or later edition, with one (1) of the following: Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Borderline Personality Disorder. The only Not Otherwise Specified (NOS) diagnosis included is Psychotic Disorder NOS for a maximum of one hundred twenty (120) days without a conclusive diagnosis. 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 listed below on either a continuous or intermittent basis, at least once per year. 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. The skill areas that are targeted must be consistent with the participant's ability to engage and benefit from treatment. The detail of the participant's level and type of functional impairment must be documented in the medical record in the following areas: (9-1-13)T

- i. Vocational/educational; (9-1-13)T
- ii. Financial; (9-1-13)T
- iii. Social relationships/support; (9-1-13)T
- iv. Family; (9-1-13)T
- v. Basic living skills; (9-1-13)T
- vi. Housing; (9-1-13)T
- vii. Community/legal; or (9-1-13)T
- viii. Health/medical. (9-1-13)T

c. A student must meet the Department of Education's criteria for emotional disturbance found in the Idaho Special Education Manual available online at the Idaho Department of Education website, [http://www.sde.idaho.gov/site/special\\_edu/](http://www.sde.idaho.gov/site/special_edu/). (9-1-13)T

**02. Behavioral Intervention and Behavioral Consultation.** To be eligible for behavioral intervention and behavioral consultation services, the student must: (9-1-13)T

a. Meet the criteria for developmental disabilities as identified in Section 66-402(5), Idaho Code, and have documentation to support eligibility using the standards under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 501; and (9-1-13)T

b. Exhibit maladaptive behaviors that include frequent disruptive behaviors, aggression, self-injury, criminal or dangerous behavior evidenced by a score of at least one point five (1.5) standard deviations from the mean in at least two (2) behavior domains and by at least two (2) raters familiar with the student, or at least two (2) standard deviations from the mean in one (1) composite score that consists of at least three (3) behavior domains by at least two (2) raters familiar with the student, on a standardized behavioral assessment approved by the Department; and (9-1-13)T

c. Have maladaptive behaviors that interfere with the student's ability to access an education. (9-1-13)T

**03. Personal Care Services.** To be eligible for personal care services (PCS), the student must have a completed children's PCS assessment approved by the Department. To determine eligibility for PCS, the assessment results must find the student requires PCS due to a medical condition that impairs the physical or functional abilities of the student. (9-1-13)T

**8523. SCHOOL-BASED SERVICE: COVERAGE AND LIMITATIONS.**

The Department will pay school districts and charter schools for covered rehabilitative and health-related services. Services include medical or remedial services provided by school districts or other cooperative service agencies, as defined in Section 33-317, Idaho Code. (7-1-13)

**01. Excluded Services.** The following services are excluded from Medicaid payments to school-based programs: (3-30-07)

**a. Vocational Services.** (3-30-07)

**b.** Educational Services. Educational services (other than health related services) or education-based costs normally incurred to operate a school and provide an education. Evaluations completed for educational services only cannot be billed. (3-30-07)

**c.** Recreational Services. (3-30-07)

**02. Evaluation And Diagnostic Services.** Evaluations to determine eligibility or the need for health-related services may be reimbursed even if the student is not found eligible for health-related services. Evaluations completed for educational services only cannot be billed. Evaluations completed must: (3-30-07)

**a.** Be recommended or referred by a physician or other practitioner of the healing arts. A school district or charter school may not seek reimbursement for services provided prior to receiving a signed and dated recommendation or referral; (7-1-13)

**b.** Be conducted by qualified professionals for the respective discipline as defined in Section 854~~5~~ of these rules; ~~(7-1-13)~~(9-1-13)T

**c.** Be directed toward a diagnosis; and (7-1-13)

**d.** Include recommended interventions to address each need. (7-1-13)

**03. Reimbursable Services.** School districts and charter schools can bill for the following health-related services provided to eligible students when the services are provided under the recommendation of a physician or other practitioner of the healing arts for the Medicaid services for which the school district or charter school is seeking reimbursement. A school district or charter school may not seek reimbursement for services provided prior to receiving a signed and dated recommendation or referral. (7-1-13)

**a.** Behavioral Intervention. Behavioral Intervention is used to promote the student's ability to participate in educational services, as defined in Section 850 of these rules, through a consistent, assertive, and continuous intervention process. It includes the development of replacement behaviors with the purpose to prevent or treat behavioral conditions of students who exhibit maladaptive behaviors. Services include individual or group behavioral interventions. The following staff-to-participant ratios apply: (7-1-13)

**i.** There must be at least one (1) qualified staff providing direct services for every three (3) students, unless the student has an assessment score of at least two (2) standard deviations from the mean in one (1) composite score. (7-1-13)

**ii.** When intervention is provided by a professional for students with an assessment score of at least two (2) standard deviations from the mean in one (1) composite score, there must be at least one (1) qualified staff for every two (2) students. (7-1-13)

**iii.** When intervention is provided by a paraprofessional for students with an assessment score of at least two (2) standard deviations from the mean in one (1) composite score, group intervention is not allowable. (7-1-13)

**iv.** As the number and severity of the students with behavioral issues increases, the staff participant ratio must be adjusted accordingly. (7-1-13)

**v.** Group services should only be delivered when the child's goals relate to benefiting from group interaction. (7-1-13)

**b.** Behavioral Consultation. Behavioral consultation assists other service professionals by consulting with the IEP team during the assessment process, performing advanced assessment, coordinating the implementation of the behavior implementation plan and providing ongoing training to the behavioral interventionist and other team members. (7-1-13)

- i. Behavioral consultation cannot be provided as a direct intervention service. (7-1-13)
- ii. Behavioral consultation must be limited to thirty-six (36) hours per student per year. (7-1-13)
- c. Medical Equipment and Supplies. Medical equipment and supplies that are covered by Medicaid must be ordered by a physician and prior authorized, based on medical necessity, in order to be billed. Authorized items must be used at school at the location where the service is provided. Equipment that is too large or unsanitary to transport from home to school may be covered if prior authorized. The equipment and supplies must be used for the student's exclusive use and transfer with the student if the student changes schools. Equipment no longer usable by the student, may be donated to the school by the student. (7-1-13)
- d. Nursing Services. Skilled nursing services must be provided by a licensed nurse, within the scope of his practice. Emergency, first aid, or non-routine medications not identified on the plan as a health-related service are not reimbursed. (3-30-07)
- e. Occupational Therapy and Evaluation. Occupational therapy and evaluation services for vocational assessment, training or vocational rehabilitation are not reimbursed. (3-30-07)
- f. Personal Care Services. School based personal care services include medically oriented tasks having to do with the student's physical or functional requirements. The provider must deliver at least one (1) of the following services: (7-1-13)
  - i. Basic personal care and grooming to include bathing, care of the hair, assistance with clothing, and basic skin care; (7-1-13)
  - ii. Assistance with bladder or bowel requirements that may include helping the student to and from the bathroom or assisting the student with bedpan routines; (7-1-13)
  - iii. Assistance with food, nutrition, and diet activities including preparation of meals if incidental to medical need; (7-1-13)
  - iv. The continuation of developmental disabilities programs to address the activities of daily living needs in the school setting as identified on the child's PCS assessment, in order to increase or maintain independence for the student with developmental disabilities as determined by the nurse or qualified intellectual disabilities professional (QIDP); (7-1-13)
  - v. Assisting the student with physician-ordered medications that are ordinarily self-administered, in accordance with IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," Subsection 490.05; (7-1-13)
  - vi. Non-nasogastric gastrostomy tube feedings, if the task is not complex and can be safely performed in the given student care situation, and the requirements are met in accordance with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Subsection 303.01. (7-1-13)
- g. Physical Therapy and Evaluation. (3-30-07)
- h. Psychological Evaluation. (3-30-07)
- i. Psychotherapy. (3-30-07)
- j. Psychosocial Rehabilitation (PSR) Services and Evaluation. Psychosocial rehabilitation (PSR) services and evaluation services to assist the student in gaining and utilizing skills necessary to participate in school. Training in behavior control, social skills, communication skills, appropriate interpersonal behavior, symptom management, activities of daily living, study skills, and coping skills are types of interventions that may be reimbursed. This service is to prevent placement of the student into a more restrictive educational situation. ~~See IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 123 for a description of PSR services.~~ (3-29-10)(9-1-13)T

- k. Speech/Audiological Therapy and Evaluation. (3-30-07)
- l. Social History and Evaluation. (3-30-07)
- m. Transportation Services. School districts and charter schools can receive reimbursement for mileage for transporting a student to and from home, school, or location of services when: (7-1-13)
  - i. The student requires special transportation assistance such as a wheelchair lift, an attendant, or both, when medically necessary for the health and safety of the student and ordered by a physician; (3-30-07)
  - ii. The transportation occurs in a vehicle specifically adapted to meet the needs of a student with a disability; (3-30-07)
  - iii. The student requires and receives another Medicaid reimbursable service billed by the school-based services provider, other than transportation, on the day that transportation is being provided; (3-30-07)
  - iv. Both the Medicaid-covered service and the need for the special transportation are included on the student's plan; and (3-30-07)
  - v. The mileage, as well as the services performed by the attendant, are documented. See Section 85~~4~~<sup>5</sup> of these rules for documentation requirements. (~~3-30-07~~)(9-1-13)T
- n. Interpretive Services. Interpretive services needed by a student who is deaf or does not adequately speak or understand English and requires an interpreter to communicate with the professional or paraprofessional providing the student with a health-related service may be billed with the following limitations: (7-1-13)
  - i. Payment for interpretive services is limited to the specific time that the student is receiving the health-related service; (3-30-07)
  - ii. Both the Medicaid-covered service and the need for interpretive services must be included on the student's plan; and (3-30-07)
  - iii. Interpretive services are not covered if the professional or paraprofessional providing services is able to communicate in the student's primary language. (3-30-07)

**85~~3~~<sup>4</sup>. SCHOOL-BASED SERVICE: PROCEDURAL REQUIREMENTS.**

The following documentation must be maintained by the provider and retained for a period of six (6) years: (7-1-13)

**01. Individualized Education Program (IEP) and Other Service Plans.** School districts and charter schools may bill for Medicaid services covered by a current Individualized Education Program (IEP), transitional Individualized Family Service Plan (IFSP) when the child turns three (3) years old, or Services Plan (SP) defined in the Idaho Special Education Manual on the State Department of Education website for parentally placed private school students with disabilities when designated funds are available for special education and related services. The plan must be developed within the previous three hundred sixty-five (365) days which indicates the need for one (1) or more medically-necessary health-related service, and lists all the Medicaid reimbursable services for which the school district or charter school is requesting reimbursement. The IEP and transitional IFSP must include: (7-1-13)

- i. Type, frequency, and duration of the service(s) provided; (7-1-13)
- ii. Title of the provider(s), including the direct care staff delivering services under the supervision of the professional; (7-1-13)
- iii. Measurable goals, when goals are required for the service; and (7-1-13)
- iv. Specific place of service. (7-1-13)

**02. Evaluations and Assessments.** Evaluations and assessments must support services billed to

Medicaid, and must accurately reflect the student's current status. Evaluations and assessments must be completed at least every (3) years. (7-1-13)

- 03. Service Detail Reports.** A service detail report that includes: (7-1-13)
- a.** Name of student; (7-1-13)
  - b.** Name and title of the person providing the service; (7-1-13)
  - c.** Date, time, and duration of service; (7-1-13)
  - d.** Place of service, if provided in a location other than school; (7-1-13)
  - e.** Category of service and brief description of the specific areas addressed; and (7-1-13)
  - f.** Student's response to the service when required for the service. (7-1-13)
- 04. One Hundred Twenty Day Review.** A documented review of progress toward each service plan goal completed at least every one hundred twenty (120) days from the date of the annual plan. (7-1-13)
- 05. Documentation of Qualifications of Providers.** (7-1-13)
- 06. Copies of Required Referrals and Recommendations.** Copies of required referrals and recommendations. (7-1-13)
- a.** School-based services must be recommended or referred by a physician or other practitioner of the healing arts for all Medicaid services for which the school district or charter school is receiving reimbursement. (7-1-13)
  - b.** A recommendation or referral must be obtained prior to the provision of services for which the school district or charter school is seeking reimbursement. (7-1-13)
- 07. Parental Notification.** School districts and charter schools must document that parents were notified of the health-related services and equipment for which they will bill Medicaid. Notification must comply with the requirements in Subsection 85~~34~~.08 of this rule. ~~(7-1-13)~~(9-1-13)T
- 08. Requirements for Cooperation with and Notification of Parents and Agencies.** Each school district or charter school billing for Medicaid services must act in cooperation with students' parents and with community and state agencies and professionals who provide like Medicaid services to the student. (7-1-13)
- a.** Notification of Parents. For all students who are receiving Medicaid reimbursed services, school districts and charter schools must ensure that parents are notified of the Medicaid services and equipment for which they will bill Medicaid. Notification must describe the service(s), service provider(s), and state the type, location, frequency, and duration of the service(s). The school district must provide the student's parent or guardian with a current copy of the child's plan and any pertinent addenda; and (7-1-13)
  - b.** Notification to Primary Care Physician. School districts and charter schools must request the name of the student's primary care physician from the parent or guardian so the school program can share health-related information with the physician with written consent from the parent or guardian. The following information must be sent to the student's primary care physician: (7-1-13)
    - i.** Results of evaluations within sixty (60) days of completion; (7-1-13)
    - ii.** A copy of the cover sheet and services page within thirty (30) days of the plan meeting; and (7-1-13)
    - iii.** A copy of progress notes, if requested by the physician, within sixty (60) days of completion.

(7-1-13)

c. Other Community and State Agencies. Upon receiving a request for a copy of the evaluations or the current plan, the school district or charter school must furnish the requesting agency or professional with a copy of the plan or appropriate evaluation after obtaining consent for release of information from the student's parent or guardian. (7-1-13)

**8545. SCHOOL-BASED SERVICE: PROVIDER QUALIFICATIONS AND DUTIES.**

Medicaid will only reimburse for services provided by qualified staff. The following are the minimum qualifications for providers of covered services: (7-1-13)

**01. Behavioral Intervention.** Behavioral intervention must be provided by or under the supervision of a professional. (7-1-13)

a. A behavioral intervention professional must meet the following: (7-1-13)

i. An individual with an Exceptional Child Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 028; or (7-1-13)

ii. An individual with an Early Childhood/Early Childhood Special Education Blended Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 019; or (7-1-13)

iii. A Special Education Consulting Teacher who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 029; or (7-1-13)

iv. Habilitative intervention professional who meets the requirements defined in IDAPA 16.03.10 "Medicaid Enhanced Plan Benefits," Section 685; or (7-1-13)

v. Individuals employed by a school as certified Intensive Behavioral Intervention (IBI) professionals prior to July 1, 2013, are qualified to provide behavioral intervention; and (7-1-13)

vi. Must be able to provide documentation of one (1) year's supervised experience working with children with developmental disabilities. This can be achieved by previous work experience gained through paid employment, university practicum experience, or internship. It can also be achieved by increased on-the-job supervision experience gained during employment at a school district or charter school. (7-1-13)

b. A paraprofessional under the direction of a qualified behavioral intervention professional, must meet the following: (7-1-13)

i. Must be at least eighteen (18) years of age; (7-1-13)

ii. Demonstrate the knowledge, have the skills needed to support the program to which they are assigned, and meet the requirements under the "Standards for Paraprofessionals Supporting Students with Special Needs," available online at the State Department of Education website; and (7-1-13)

iii. Must meet the paraprofessional requirements under the Elementary and Secondary Education Act of 1965, as amended, Title I, Part A, Section 1119. (7-1-13)

c. A paraprofessional delivering behavioral intervention services must be under the supervision of a behavioral intervention professional or behavioral consultation provider. The professional must observe and review the direct services performed by the paraprofessional on a monthly basis, or more often as necessary, to ensure the paraprofessional demonstrates the necessary skills to correctly provide the behavioral intervention service. (7-1-13)

**02. Behavioral Consultation.** Behavioral consultation must be provided by a professional who has a Doctoral or Master's degree in psychology, education, applied behavioral analysis, or has 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 who meets one (1) of the following: (7-1-13)

**a.** An individual with an Exceptional Child Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 028. (7-1-13)

**b.** An individual with an Early Childhood/Early Childhood Special Education Blended Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 019. (7-1-13)

**c.** A Special Education Consulting Teacher who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity" Section 029. (7-1-13)

**d.** An individual with a Pupil Personnel Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 027, excluding a registered nurse or audiologist. (7-1-13)

**e.** An occupational therapist who is qualified and registered to practice in Idaho. (7-1-13)

**f.** Therapeutic consultation professional who meets the requirements defined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 685. (7-1-13)

**03. Medical Equipment and Supplies.** See Subsection 8523.03 of these rules. ~~(7-1-13)~~(9-1-13)T

**04. Nursing Services.** Nursing services must be provided by a registered nurse or licensed professional nurse (RN), or by a licensed practical nurse (LPN) licensed to practice in Idaho. (7-1-13)

**05. Occupational Therapy and Evaluation.** Occupation therapy and evaluation must be provided by or under the supervision of an individual qualified and registered to practice in Idaho. (7-1-13)

**06. Personal Care Services.** Personal care services must be provided by or under the direction of a registered nurse licensed by the State of Idaho. (7-1-13)

**a.** Providers of PCS must have at least one (1) of the following qualifications: (7-1-13)

**i.** Registered Nurse or Licensed Professional Nurse (RN). A person currently licensed by the Idaho State Board of Nursing as a registered nurse or licensed professional nurse; (7-1-13)

**ii.** Licensed Practical Nurse (LPN). A person currently licensed by the Idaho State Board of Nursing as a licensed practical nurse; or (7-1-13)

**iii.** Personal Assistant. A person who meets the standards of Section 39-5603, Idaho Code, and receives training to ensure the quality of services. The assistant must be at least age eighteen (18) years of age. Medically-oriented services may be delegated to an aide in accordance with IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." The professional nurse may require a certified nursing assistant (CNA) if, in their professional judgment, the student's medical condition warrants a CNA. (7-1-13)

**b.** The registered nurse (RN) must complete the PCS assessment and develop the written plan of care annually. Oversight provided by the RN must include all of the following: (7-1-13)

**i.** Development of the written PCS plan of care; (7-1-13)

**ii.** Review of the treatment given by the personal assistant through a review of the student's PCS record as maintained by the provider; and (7-1-13)

**iii.** Reevaluation of the plan of care as necessary, but at least annually. (7-1-13)

**c.** In addition to the RN oversight, the Qualified Intellectual Disabilities Professional (QIDP) as defined in 42 CFR 483.430 provides oversight for students with developmental disabilities when identified as a need

on the PCS assessment. Oversight must include: (7-1-13)

i. Assistance in the development of the PCS plan of care for those aspects of developmental disabilities programs that address the student's activities of daily living needs provided in the school by the personal assistant; (7-1-13)

ii. Review of the developmental disabilities programs given by the personal assistant through a review of the student's PCS record as maintained by the provider and through on-site observation of the student; and (7-1-13)

iii. Reevaluation of the PCS plan of care as necessary, but at least annually. (7-1-13)

**d.** The RN, QIDP, or a combination of both, must conduct supervisory visits on a quarterly basis, or more frequently as determined by the IEP team and defined as part of the PCS plan of care. (7-1-13)

**07. Physical Therapy and Evaluation.** Physical therapy and evaluation must be provided by an individual qualified and licensed as a physical therapist to practice in Idaho. (7-1-13)

**08. Psychological Evaluation.** A psychological evaluation must be provided by a: (7-1-13)

**a.** Licensed psychiatrist; (7-1-13)

**b.** Licensed physician; (7-1-13)

**c.** Licensed psychologist; (7-1-13)

**d.** Psychologist extender registered with the Bureau of Occupational Licenses; or (7-1-13)

**e.** Certified school psychologist. (7-1-13)

**09. Psychotherapy.** Provision of psychotherapy services must have, at a minimum, one (1) or more of the following credentials: (7-1-13)

**a.** Psychiatrist, M.D.; (7-1-13)

**b.** Physician, M.D.; (7-1-13)

**c.** Licensed psychologist; (7-1-13)

**d.** Licensed clinical social worker; (7-1-13)

**e.** Licensed clinical professional counselor; (7-1-13)

**f.** Licensed marriage and family therapist; (7-1-13)

**g.** Certified psychiatric nurse (R.N.), as described in Subsection 707.13 of these rules; (7-1-13)

**h.** Licensed professional counselor whose provision of psychotherapy is supervised in compliance with IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists"; (7-1-13)

**i.** 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"; (7-1-13)

**j.** Licensed associate marriage and family therapist whose provision of psychotherapy is supervised as described in IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists"; or (7-1-13)

k. Psychologist extender, registered with the Bureau of Occupational Licenses, whose provision of diagnostic services is supervised in compliance with IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners." (7-1-13)

10. **Psychosocial Rehabilitation (PSR).** Psychosocial rehabilitation must be provided by a: (7-1-13)

a. Licensed physician, licensed practitioner of the healing arts, or licensed psychiatrist; (7-1-13)

b. Licensed master's level psychiatric nurse; (7-1-13)

c. Licensed psychologist; (7-1-13)

d. Licensed clinical professional counselor or professional counselor; (7-1-13)

e. Licensed marriage and family therapist or associate marriage and family therapist; (7-1-13)

f. Licensed masters social worker, licensed clinical social worker, or licensed social worker; (7-1-13)

g. Psychologist extender registered with the Bureau of Occupational Licenses; (7-1-13)

h. Licensed professional or registered nurse (RN); (7-1-13)

~~i. Psychosocial rehabilitation specialist as defined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 131;~~ (7-1-13)

~~ji.~~ Licensed occupational therapist; (7-1-13)

~~kj.~~ Certified school psychologist; ~~or~~ (7-1-13)(9-1-13)T

~~lk.~~ Certified school social worker; or (7-1-13)(9-1-13)T

l. Psychosocial rehabilitation (PSR) specialist. A PSR specialist is: (9-1-13)T

i. An individual who has a Bachelor's degree and holds a current PRA credential; or (9-1-13)T

ii. An individual who has a Bachelor's degree or higher and was hired on or after November 1, 2010, to work as a PSR specialist to deliver Medicaid-reimbursable mental health services. This individual may continue to do so for a period not to exceed thirty (30) months from the initial date of hire. In order to continue as a PSR specialist beyond a total period of thirty (30) months from the date of hire, the worker must have completed a certificate program or earned a certification in psychiatric rehabilitation based upon the primary population with whom he works in accordance with the requirements set by the PRA. (9-1-13)T

iii. Credential required for PSR specialists working primarily with adults. (9-1-13)T

(1) Applicants who intend to work primarily with adults, age eighteen (18) or older, must become a Certified Psychiatric Rehabilitation Practitioner in accordance with the PRA requirements. (9-1-13)T

(2) Applicants who work primarily with adults, but also intend to work with participants under the age of eighteen (18), must have training addressing children's developmental milestones, or have evidence of classroom hours in equivalent courses. The worker's supervisor must determine the scope and amount of training the worker needs in order to work competently with children assigned to the worker's caseload. (9-1-13)T

iv. Credential required for PSR specialists working primarily with children. (9-1-13)T

(1) Applicants who intend to work primarily with children under the age of eighteen (18) must obtain a certificate in children's psychiatric rehabilitation in accordance with the PRA requirements. (9-1-13)T

(2) Applicants who primarily work with children, but who also intend to work with participants eighteen (18) years of age or older, must have training or have evidence of classroom hours addressing adult issues in psychiatric rehabilitation. The worker's supervisor must determine the scope and amount of training the worker needs in order to competently work with adults assigned to the worker's caseload. (9-1-13)T

v. An individual who is qualified to apply for licensure to the Idaho Bureau of Occupational Licenses, in any of the professions listed above in Subsections 855.10.a. through 855.10.i., who has failed his licensing exam or has been otherwise denied licensure is not eligible to provide services under the designation of PSR Specialist unless this individual has obtained one (1) of the PRA credentials. (9-1-13)T

**11. Speech/Audiological Therapy and Evaluation.** Speech/audiological therapy and evaluation must be provided by or under the direction of a speech pathologist or audiologist who possesses a certificate of clinical competence from the American Speech, Language and Hearing Association (ASHA); or who will be eligible for certification within one (1) year of employment. Personnel records must reflect the expected date of certification. (7-1-13)

**12. Social History and Evaluation.** Social history and evaluation must be provided by a registered nurse or licensed professional nurse (RN), psychologist, M.D, school psychologist, certified school social worker, or by a person who is licensed and qualified to provide social work in the state of Idaho. (7-1-13)

**13. Transportation.** Transportation must be provided by an individual who has a current Idaho driver's license and is covered under vehicle liability insurance that covers passengers for business use. (7-1-13)

**14. Paraprofessionals.** The schools may use paraprofessionals to provide occupational therapy, physical therapy, and speech therapy if they are under the supervision of the appropriate professional. The services provided by paraprofessionals must be delegated and supervised by a professional therapist as defined by the appropriate licensure and certification rules. The portions of the treatment plan that can be delegated to the paraprofessional must be identified in the IEP or transitional IFSP. (7-1-13)

**a.** Occupational Therapy. Refer to IDAPA 24.06.01, "Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants," for qualifications, supervision, and service requirements. (7-1-13)

**b.** Physical Therapy. Refer to IDAPA 24.13.01, "Rules Governing the Physical Therapy Licensure Board," for qualifications, supervision and service requirements. (7-1-13)

**c.** Speech-Language Pathology. Refer to IDAPA 24.23.01, "Rule of the Speech and Hearing Services Licensure Board," and the American Speech-Language-Hearing Association (ASHA) guidelines for qualifications, supervision and service requirements for speech-language pathology. The guidelines have been incorporated by reference in Section 004 of these rules. (7-1-13)

**8556. SCHOOL-BASED SERVICE: PROVIDER REIMBURSEMENT.**

Payment for health-related services provided by school districts and charter schools must be in accordance with rates established by the Department. (7-1-13)

**01. Payment in Full.** Providers of services must accept as payment in full the school district or charter school payment for such services and must not bill Medicaid or Medicaid participants for any portion of any charges. (7-1-13)

**02. Third Party.** For requirements regarding third party billing, see Section 215 of these rules. (3-30-07)

**03. Recoupment of Federal Share.** Failure to provide services for which reimbursement has been received or to comply with these rules will be cause for recoupment of the Federal share of payments for services, sanctions, or both. (3-30-07)

**04. Matching Funds.** Federal funds cannot be used as the State's portion of match for Medicaid service

reimbursement. School districts and charter schools must, for their own internal record keeping, calculate and document the non-federal funds (maintenance of effort assurance) that have been designated as their certified match. This documentation needs to include the source of all funds that have been submitted to the State and the original source of those dollars. The appropriate matching funds will be handled in the following manner: (3-30-07)

**a.** Schools will estimate the amount needed to meet match requirements based on their anticipated monthly billings. (3-30-07)

**b.** School districts and charter schools will send the Department the matching funds, either by check or automated clearing house (ACH) electronic funds transfers. (3-30-07)

**c.** The Department will hold matching funds in an interest bearing trust account. The average daily balance during a month must exceed one hundred dollars (\$100) in order to receive interest for that month. (3-30-07)

**d.** The payments to the districts will include both the federal and non-federal share (matching funds). (3-30-07)

**e.** Matching fund payments must be received and posted in advance of the weekly Medicaid payment cycle. (3-30-07)

**f.** If sufficient matching funds are not received in advance, all Medicaid payments to the school district will be suspended and the school district will be notified of the shortage. Once sufficient matching funds are received, suspended payments will be processed and reimbursement will be made during the next payment cycle. (3-30-07)

**g.** The Department will provide the school districts a monthly statement which will show the matching amounts received, interest earned, total claims paid, the matching funds used for the paid claims, and the balance of their funds in the trust account. (3-30-07)

**h.** The school districts will estimate the amount of their next billing and the amount of matching funds needed to pay the Department. (3-30-07)

**i.** The estimated match requirement may be adjusted up or down based on the remaining balance held in the trust account. (3-30-07)

**8567. SCHOOL-BASED SERVICE: QUALITY ASSURANCE.**

The provider will grant the Department immediate access to all information required to review compliance with these rules. (3-30-07)

**8578. -- 859. (RESERVED)**

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

**16.03.10 - MEDICAID ENHANCED PLAN BENEFITS**

**DOCKET NO. 16-0310-1301**

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

**EFFECTIVE DATE:** The effective date of the temporary rule is September 1, 2013.

**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, 56-203, 56-250 through 56-257, and 56-260 through 56-266, Idaho Code.

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

<b>Tuesday, August 20, 2013 6:00 p.m. P.D.T.</b>	<b>Wednesday, August 21, 2013 1:00 p.m. M.D.T.</b>	<b>Wednesday, August 21, 2013 6:00 p.m. M.D.T.</b>
<b>IDHW Region I Office (lrg. conf. room, lower level) 1120 Ironwood Dr., Suite 102 Coeur d'Alene, ID 83814</b>	<b>Medicaid Central Office (conf. rooms D-East &amp; West) 3232 Elder Street Boise, ID 83705</b>	<b>IDHW Region VII Office (2nd flr., large conf. room) 150 Shoup Ave. Idaho Falls, ID 83402</b>

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:

Section 56-261, Idaho Code, directs the Department to implement managed care tools to develop an accountable care system to improve health outcomes. In order to comply, the State will implement a 1915(b) Waiver that will require Medicaid participants to enroll in a statewide prepaid ambulatory health plan (PAHP). Rule changes are being made to incorporate the managed care waiver changes into these rules.

All rules related to behavioral health services are being removed from these rules and moved into IDAPA 16.03.09, "Medicaid Basic Plan Benefits."

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate because it confers a benefit. In compliance with Section 56-261, Idaho Code, that requires the Department to implement managed care systems whenever possible, these rule changes are necessary in order for the Department to confer the Idaho Medicaid Behavioral Health benefits under the applicable authority.

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

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

There is no anticipated fiscal impact to the state general fund. The consolidation of mental health clinic services, psychosocial rehabilitative services, mental health service coordination, and substance use disorder service benefits into one program of behavioral health services provided through a managed care delivery system will be cost-neutral.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this is a temporary rule being done to comply with the requirements in Section 56-261, Idaho Code.

**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 Carolyn Burt at (208) 364-1844.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 28, 2013.

DATED this 9th day of July, 2013.

Tamara Prisock  
DHW - Administrative Rules Unit  
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](mailto:dhwrules@dhw.idaho.gov)

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**THE FOLLOWING IS THE TEMPORARY RULE AND THE TEXT OF THE PROPOSED RULE  
FOR DOCKET NO. 16-0310-1301**

**001. TITLE AND SCOPE.**

**01. Title.** The title of these rules is IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-19-07)

**02. Scope.** These rules establish the Medicaid Enhanced Plan Benefits covered under Title XIX and Title XXI. Participants who are eligible for Enhanced Plan Benefits are also eligible for benefits under IDAPA 16.03.09, "Medicaid Basic Plan Benefits," with the exception of coverage for dental services. Dental services for the Medicaid Enhanced Plan are covered under Sections 080 through 085 of these rules. Outpatient behavioral health benefits are contained in IDAPA 16.03.09. "Medicaid Basic Plan Benefits." ~~(5-8-09)~~(9-1-13)T

**03. Scope of Reimbursement System Audits.** These rules also provide for the audit of providers' claimed costs against these rules and Medicare standards. The Department reserves the right to audit financial and other records of the provider, and, when warranted, the records of entities related to the provider. Audits consist of the following types of records: (3-19-07)

- a.** Cost verification of actual costs for providing goods and services; (3-19-07)
- b.** Evaluation of provider's compliance with the provider agreement, reporting form instructions, and any applicable law, rule, or regulation; (3-19-07)
- c.** Effectiveness of the service to achieve desired results or benefits; and (3-19-07)
- d.** Reimbursement rates or settlement calculated under this chapter. (3-19-07)

**04. Exception to Scope for Audits and Investigations.** Audits as described in these rules do not apply to the audit processes used in conducting investigations of fraud and abuse under IDAPA 16.05.07, "Investigation and Enforcement of Fraud, Abuse, and Misconduct." (3-19-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**004. INCORPORATION BY REFERENCE.**

The Department has incorporated by reference the following document: (3-19-07)

**01. 42 CFR Part 447.** 42 CFR Part 447, "Payment for Services," revised as of October 1, 2001, is available from CMS, 7500 Security Blvd, Baltimore, M.D., 21244-1850 or on the Code of Federal Regulations website at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html>. (3-19-07)

**02. CDT - 2007/2008 (Current Dental Terminology, Sixth Edition).** Current Dental Terminology, Sixth Edition, is available from the American Dental Association, 211 East Chicago Ave., Chicago, IL 60601-9985, or may be ordered online at <http://www.adacatalog.org>. A copy is available for public review at the Division of Medicaid, 3232 Elder Street, Boise, ID 83705. (5-8-09)

~~**03. DSM-IV-TR.** American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR) Washington, DC, American Psychiatric Association, 2000. Copies of the manual are available from the American Psychiatric Association, 1400 K Street, N.W., Washington, DC, 20005. A copy of the manual is also available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702. (3-19-07)~~

**043. Estimated Useful Lives of Depreciable Hospital Assets, 2004 Revised Edition, Guidelines Lives.** This document may be obtained from American Hospital Publishing, Inc., 211 E. Chicago Ave., Chicago, IL 60611. (3-19-07)

**054. Medicare Region D Durable Medical Equipment Regional Carrier (DMERC) Supplier Manual or Its Successor.** The full text of the Medicare Region D DMERC Supplier Manual Chapters IX and X, date April 2001, is available via the Internet at [www.cignamedicare.com](http://www.cignamedicare.com). A copy is also available at the Idaho State Supreme Court Law Library. (3-19-07)

**065. Provider Reimbursement Manual (PRM).** The Provider Reimbursement Manual (PRM), Part I and Part II CMS Publication 15-1 and 15-2, is available on the CMS website at <http://www.cms.gov/Manuals/PBM/list.asp>. (3-19-07)

**076. Resource Utilization Groups (RUG) Grouper.** The RUG III, version 5.12, 34 Grouper, nursing weights only, with index maximization. The RUG Grouper is available from CMS, 7500 Security Blvd., Baltimore, MD, 21244-1850. (3-19-07)

**087. SIB-R Comprehensive Manual.** Scales of Independent Behavior - Revised Comprehensive Manual, 1996, Riverside Publishing Co, 425 Spring Lake Drive, Itasca, IL 60143-2079. (3-19-07)

**098. Travel Policies and Procedures of the Idaho State Board of Examiners.** The text of "Idaho State Travel Policies and Procedures of the Idaho State Board of Examiners," Appendices A and B, June 13, 2000, is available at the Office of the State Controller, 700 W. State St., 5th Fl., Box 83720, Boise, Idaho 83720-0011 or on the Internet at <http://www.sco.idaho.gov/>. (3-19-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.**

**01. Compliance With Department Criminal History Check.** Agencies must verify that individuals working in the area listed in Subsection 009.03 of these rules whom are employed or whom they contract have complied with the provisions in IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks." (3-19-07)

**02. Additional Criminal Convictions.** Once an individual has received a criminal history clearance, any additional criminal convictions must be reported by the agency to the Department when the agency learns of the conviction. (3-19-07)

**03. Providers Subject to Criminal History and Background Check Requirements.** The following providers are required to have a criminal history and background check: (3-19-07)

**a. Adult Day Health Providers.** The criminal history and background check requirements applicable to providers of adult day health as provided in Sections 329 and 705 of these rules. (4-4-13)

**b. Adult Residential Care Providers.** The criminal history and background check requirements applicable to adult residential care providers as provided in Section 329 of these rules. (4-2-08)

**c. Attendant Care Providers.** The criminal history and background check requirements applicable to attendant care providers as provided in Section 329 of these rules. (4-2-08)

**d. Behavior Consultation or Crisis Management Providers.** The criminal history and background check requirements applicable to behavior consultation or crisis management providers as provided in Section 705 of these rules. (4-4-13)

**e. Certified Family Home Providers and All Adults in the Home.** The criminal history and background check requirements applicable to certified family homes are found in Sections 305, 329 and 705 of these rules, and as provided in IDAPA 16.03.19, "Rules Governing Certified Family Homes." (4-2-08)

**f. Chore Services Providers.** The criminal history and background check requirements applicable to chore services providers as provided in Sections 329 and 705 of these rules. (4-2-08)

**g. Crisis Intervention Providers.** The criminal history and background check requirements applicable to crisis intervention providers as provided in Section 685 of these rules. (7-1-11)

**h. Companion Services Providers.** The criminal history and background check requirements applicable to companion services providers as provided in Section 329 of these rules. (4-2-08)

**i. Day Habilitation Providers.** The criminal history and background check requirements applicable to day habilitation providers as provided in Section 329 of these rules. (4-4-13)

**j. Developmental Disabilities Agencies (DDA).** The criminal history and background check for DDA and staff as provided in IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)," Section 009. (7-1-11)

**k. Homemaker Services Providers.** The criminal history and background check requirements applicable to homemaker services providers as provided in Section 329 of these rules. (4-2-08)

~~**l. Mental Health Clinics.** The criminal history and background check requirements applicable to mental health clinic staff as provided in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 714. (3-19-07)~~

~~**m.** Personal Assistance Agencies Acting As Fiscal Intermediaries. The criminal history and background check requirements applicable to the staff of personal assistance agencies acting as fiscal intermediaries as provided in Subsection 329.02 of these rules. (3-19-07)~~

~~**n.** Personal Care Providers. The criminal history and background check requirements applicable to personal care providers as provided in Subsection 305.06 of these rules. (3-19-07)~~

~~**o. Psychosocial Rehabilitation Agencies.** The criminal history and background check requirements applicable to psychosocial rehabilitation agency employees as provided in Subsection 130.02 of these rules. (3-19-07)~~

~~P~~**1.** Residential Habilitation Providers. The criminal history and background check requirements applicable to residential habilitation providers as provided in Sections 329 and 705 of these rules, and IDAPA 16.04.17 “Rules Governing Residential Habilitation Agencies,” Sections 202 and 301. (4-2-08)

~~R~~**0.** Respite Care Providers. The criminal history and background check requirements applicable to respite care providers as provided in Sections 329, 665, and 705 of these rules. (7-1-11)

~~S~~**0.** Service Coordinators and Paraprofessionals. The criminal history and background check requirements applicable to service coordinators and paraprofessionals working for an agency as provided in Section 729 of these rules. (3-19-07)

~~S~~**0.** Skilled Nursing Providers. The criminal history and background check requirements applicable to skilled nursing providers as provided in Sections 329 and 705 of these rules. (4-4-13)

~~S~~**0.** Supported Employment Providers. The criminal history and background check requirements applicable to supported employment providers as provided in Sections 329 and 705 of these rules. (4-2-08)

~~T~~**0.** Therapeutic Consultant. The criminal history and background check requirements applicable to therapeutic consultation providers as provided in Section 685 of these rules. (7-1-11)

**(BREAK IN CONTINUITY OF SECTIONS)**

**038. GENERAL REIMBURSEMENT: TYPES OF PARTICIPANT SERVICES.**

The following types of services are reimbursed as provided in Section 037 of these rules. (4-4-13)

~~01.~~ *Payment for Enhanced Outpatient Mental Health Services. The fees for outpatient mental health services described in Section 110 of these rules.* (4-4-13)

~~02.~~ *Psychosocial Rehabilitative Services (PSR). The fees for psychosocial rehabilitative services (PSR) described in Section 120 of these rules.* (4-4-13)

~~031.~~ **Personal Care Services.** The fees for personal Care Services (PCS) described in Section 300 of these rules. (4-4-13)

~~042.~~ **Aged and Disabled Waiver Services.** The fees for personal care services (PCS) described in Section 320 of these rules. (4-4-13)

~~053.~~ **Children’s Waiver Services.** The fees for children’s waiver services described in Section 680 of these rules. (4-4-13)

~~064.~~ **Adults with Developmental Disabilities Waiver Services.** The fees for adults with developmental disabilities waiver services described in Section 700 of these rules. (4-4-13)

~~075.~~ **Service Coordination.** The fees for service coordination described in Section 720 of these rules. (4-4-13)

~~086.~~ **Therapy Services.** The fees for physical therapy, occupational therapy, and speech-language pathology services described in Section 215 of these rules include the use of therapeutic equipment to provide the modality or therapy. No additional charge may be made to either the Medicaid program or the client for the use of such equipment. (4-4-13)

**(BREAK IN CONTINUITY OF SECTIONS)**

**075. ENHANCED PLAN BENEFITS: COVERED SERVICES.**

Individuals who are eligible for the Medicaid Enhanced Plan Benefits are eligible for all benefits covered under IDAPA 16.03.09, "Medicaid Basic Plan Benefits," with the exception of coverage for dental services. In addition to those benefits, individuals in the enhanced plan are eligible for the following enhanced benefits as provided for in this chapter of rules. (5-8-09)

**01. Dental Services.** Dental Services are provided as described under Sections 080 through 089 of these rules. (3-29-12)

**02. Enhanced Hospital Benefits.** Organ transplants are provided under the Enhanced Hospital services as described in Sections 090 through 099 of these rules. (3-19-07)

**03. Enhanced ~~Mental~~ ~~Outpatient~~ ~~Behavioral~~ Health Benefits.** Enhanced ~~Mental~~ ~~Outpatient~~ ~~Behavioral~~ Health services are ~~provided under Sections 100 through 147 of these rules.~~ described in IDAPA 16.03.09, "Medicaid Basic Plan Benefits." (~~3-19-07~~)(9-1-13)T

**04. Enhanced Home Health Benefits.** Private Duty Nursing services are provided under the Enhanced Home Health as described in Sections 200-219 of these rules. (3-19-07)

**05. Therapies.** Physical, Speech, and Occupational Therapy Providers as described in Section 215 of these rules. (3-19-07)

**06. Long Term Care Services.** The following services are provided under the Long Term Care Services. (3-30-07)

**a.** Nursing Facility Services as described in Sections 220 through 299 of these rules. (3-19-07)

**b.** Personal Care Services as described in Sections 300 through 308 of these rules. (3-30-07)

**c.** A & D Wavier Services as described in Sections 320 through 330 of these rules. (3-30-07)

**07. Hospice.** Hospice services as described in Sections 450 through 459 of these rules. (3-19-07)

**08. Developmental Disabilities Services.** (3-19-07)

**a.** Developmental Disability Standards as described in Sections 500 through 506 of these rules. (3-19-07)

**b.** Children's Developmental Disability Services as described in Sections 520 through 528, 660 through 666, and 680 through 686 of these rules. (7-1-13)

**c.** Adult Developmental Disabilities Services as described in Sections 507 through 520, and 649 through 657 of these rules. (7-1-13)

**d.** ICF/ID as described in Sections 580 through 649 of these rules. (3-19-07)

**e.** Developmental Disabilities Agencies as described in Sections 700 through 719 of these rules. (3-19-07)

**09. Service Coordination Services.** Service coordination as described in 720 through 779 of these rules. (3-19-07)

**10. Breast and Cervical Cancer Program.** Breast and Cervical Cancer Program is described in Sections 780 through 800 of these rules. (3-19-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

SUB AREA: ENHANCED ~~MENTAL HEALTH~~ **INPATIENT PSYCHIATRIC HOSPITAL** SERVICES  
(Sections 100 Through 199)

(BREAK IN CONTINUITY OF SECTIONS)

103. --~~109.~~ (~~RESERVED~~)

~~110.~~ **ENHANCED OUTPATIENT MENTAL HEALTH SERVICES.**

~~In addition to mental health services covered under IDAPA 16.03.09 "Medicaid Basic Plan Benefits," Sections 709 through 718, the Medicaid Enhanced Plan Benefits include the following enhanced outpatient mental health benefits. (5-8-09)~~

~~01. **Community Reintegration.** The enhanced services include community reintegration as described in Sections 111 through 146 of these rules. (5-8-09)~~

~~02. **Partial Care Services.** The enhanced services include partial care services in a Mental Health Clinic as described in Subsection 116.01 of these rules. (5-8-09)~~

~~03. **Psychotherapy.** The enhanced services include additional psychotherapy in a Mental Health Clinic as described in Subsection 118.01 of these rules. (5-8-09)~~

~~04. **Skill Training.** The enhanced services include skill training as described in Sections 111 through 146 of these rules. (5-8-09)~~

~~111.~~ **ENHANCED OUTPATIENT MENTAL HEALTH SERVICES: DEFINITIONS.**

~~These definitions apply to Sections 100 through 146 of these rules. (3-19-07)~~

~~01. **Agency.** A Medicaid provider who delivers either mental health clinic services or psychosocial rehabilitative services, or both. (5-8-09)~~

~~02. **Community Reintegration.** A psychosocial rehabilitation (PSR) service that provides practical information and direct support to help the participant maintain his current skills, prevent regression, or practice newly acquired life skills. The intention of this service is to provide the information and support needed by a participant to achieve the highest level of stability and independence that meets his ongoing recovery needs. (5-8-09)~~

~~03. **Comprehensive Diagnostic Assessment.** A thorough assessment of the participant's current condition and complete medical and psychiatric history. (5-8-09)~~

~~04. **Comprehensive Diagnostic Assessment Addendum.** A supplement to the comprehensive diagnostic assessment that contains updated information relevant to the formulation of a participant's diagnosis and disposition for treatment. (3-29-12)~~

~~05. **Demographic Information.** Information that identifies participants and is entered into the Department's database collection system. (3-19-07)~~

~~06. **Duration of Services.** Refers to length of time for a specific service to occur in a single encounter. (5-8-09)~~

~~07. **Goal.** The desired outcome related to an identified issue. (3-19-07)~~

~~08. **Initial Contact.** The date a participant, or participant's parent or legal guardian comes in to an agency and requests Enhanced Plan services. (5-8-09)~~

- ~~09. **Interdisciplinary Team.** Group that consists of two (2) or more individuals in addition to the participant, the participant's legal guardian, and the participant's natural supports. This may include professionals from several fields or professions. Team members combine their skills and resources to provide guidance and assistance in the creation of the participant's treatment plan. Professionals working with the participant to fulfill the goals and objectives on the treatment plan are members of the participant's interdisciplinary team whether they attend treatment plan meetings or not. At a minimum, professional members of the team include the medical professional authorizing the treatment plan and the specific agency staff member who is working with the participant. (5-8-09)~~
- ~~10. **Issue.** A statement specifically describing the participant's behavior directly relating to the participant's mental illness and functional impairment. (3-19-07)~~
- ~~11. **Level of Care.** Clinical treatment decisions that determine service site, modality, urgency, and specific interventions needed to address the key presenting signs, symptoms, and environmental factors that indicate the severity of illness and the intensity of service needed by the participant. It also takes into account relevant external factors affecting clinical treatment decisions. (5-8-09)~~
- ~~12. **Licensed Practitioner of the Healing Arts.** A licensed physician, physician assistant, nurse practitioner, or clinical nurse specialist. The nurse practitioner and clinical nurse specialist must have experience prescribing medications for psychiatric disorders. (5-8-09)~~
- ~~13. **Neuropsychological Testing.** Assessment of brain functioning through structured and systematic behavioral observation. Neuropsychological tests are designed to examine a variety of cognitive abilities, including speed of information processing, attention, memory, language, and executive functions, which are necessary for goal-directed behavior. These data can provide information leading to the diagnosis of a cognitive deficit or to the confirmation of a diagnosis, as well as to the localization of organic abnormalities in the central nervous system. The data can also guide effective treatment methods for the rehabilitation of impaired participants. (5-8-09)~~
- ~~14. **New Participant.** A participant is considered "new" if he has not received Medicaid reimbursable mental health clinic or psychosocial rehabilitation services (PSR) in the twelve (12) months prior to the current treatment episode. (3-29-12)~~
- ~~15. **Objective.** A milestone toward meeting the goal that is concrete, measurable, time-limited, and behaviorally specific. (3-19-07)~~
- ~~16. **Occupational Therapy.** For the purposes of mental health treatment, the use of purposeful, goal-oriented activity to achieve optimum functional performance and independence, prevent further disability, and maintain health with individuals who are limited by the symptoms of their mental illness. (5-8-09)~~
- ~~17. **Partial Care.** Partial care is treatment for participants with serious and persistent mental illness (SPMI) whose functioning is sufficiently disrupted to the extent that it interferes with their productive involvement in daily living. Partial care services are a structured program of therapeutic interventions that assist program participants in the stabilization of their behavior and conduct through the application of principles of behavior modification for behavior change and structured, goal-oriented group socialization for skill acquisition. (3-29-12)~~
- ~~18. **Pharmacological Management.** The in-depth management of medications for psychiatric disorders for relief of a participant's signs and symptoms of mental illness, provided by a licensed practitioner of the healing arts. (5-8-09)~~
- ~~19. **Psychiatric Nurse, Licensed Master's Level.** A certified psychiatric nurse, Clinical Nurse Specialist or Psychiatric Nurse Practitioner, must be 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. (5-8-09)~~
- ~~20. **Psychosocial Rehabilitative Services (PSR).** An array of rehabilitative services that emphasize resiliency for children with serious emotional disturbance (SED) and recovery for adults with serious and persistent mental illness (SPMI). Services target skills for children that they would have appropriately developed for their developmental stage had they not developed symptoms of SED. Services target skills for adults that have been lost~~

~~due to the symptoms of their mental illness. (5-8-09)~~

~~21. **Psychotherapy.** A method of treating and managing psychiatric disorders through the use of evidenced-based psychological treatment modalities that match the participant's ability to benefit from the service. The focus of the service is on behavioral, emotional, and cognitive aspects of a participant's functioning. (5-8-09)~~

~~22. **Psychological Testing.** Psychological testing refers to any measurement procedure for assessing psychological characteristics in which a sample of an examinee's behavior is obtained and subsequently evaluated and scored using a standardized process. This does not refer to assessments that are otherwise conducted by a professional within the scope of his license for the purposes of determining a participant's mental status, diagnoses or functional impairments. (5-8-09)~~

~~23. **Restraints.** Restraints include the use of physical, mechanical, or chemical interventions, or other means to temporarily subdue or modify participant behavior. (5-8-09)~~

~~a. A restraint includes: (5-8-09)~~

~~i. Any manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a participant to move his arms, legs, body, or head freely; or (5-8-09)~~

~~ii. A drug or medication when it is used as a restriction to manage the participant's behavior or restrict the participant's freedom of movement and is not a standard treatment or dosage for the participant's condition; (5-8-09)~~

~~b. A restraint does not include physical escorts or devices, such as orthopedically prescribed devices, to permit the participant to participate in activities without the risk of physical harm. (5-8-09)~~

~~24. **Seclusion.** Seclusion is the involuntary confinement of a participant alone in a room or area from which the participant is prevented from leaving. (5-8-09)~~

~~25. **Serious Emotional Disturbance (SED).** In accordance with the Children's Mental Health Services Act, Section 16-2403, Idaho Code, SED is: (5-8-09)~~

~~a. An emotional or behavioral disorder, according to the DSM-IV-TR which results in a serious disability; and (5-8-09)~~

~~b. Requires sustained treatment interventions; and (5-8-09)~~

~~c. Causes the child's functioning to be impaired in thought, perception, affect, or behavior. (5-8-09)~~

~~d. A substance abuse disorder, or conduct disorder, or developmental disorder, alone, does not constitute a serious emotional disturbance, although one (1) or more of these conditions may co-exist with serious emotional disturbance. (5-8-09)~~

~~26. **Serious Mental Illness (SMI).** In accordance with 42 CFR 483.102(b)(1), a person with SMI: (5-8-09)~~

~~a. Currently or at any time during the year, must have had a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet the diagnostic criteria specified in the DSM-IV-TR; and (5-8-09)~~

~~b. Must have a functional impairment which substantially interferes with or limits one (1) or more major life activities. Functional impairment is defined as difficulties that substantially interfere with or limit role functioning with an individual's basic daily living skills, instrumental living skills, and functioning in social, family, vocational or educational contexts. Instrumental living skills include maintaining a household, managing money, getting around the community, and taking prescribed medication. An adult who met the functional impairment criteria during the past year without the benefit of treatment or other support services is considered to have a serious mental illness. (5-8-09)~~

~~27. **Serious and Persistent Mental Illness (SPMI).** Participants must meet the criteria for SMI, have at least one (1) additional functional impairment, and have a diagnosis under DSM-IV-TR with one (1) of the following: Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Borderline Personality Disorder. The only Not Otherwise Specified (NOS) diagnosis included is Psychotic Disorder NOS for a maximum of one hundred twenty (120) days without a conclusive diagnosis. (5-8-09)~~

~~28. **Skill Training.** The service of providing a curriculum-based method of skill building in a custom-tailored approach that meets the needs identified on the person's assessment, focuses on interventions that are necessary to maintain functioning, prevent regression, or achieve a rehabilitation goal, and promotes increased independence in thinking and behavior. Skill training may be delivered individually or in groups. (5-8-09)~~

~~29. **Tasks.** Specific, time limited activities and interventions designed to accomplish the objectives in the individualized treatment plan. (3-19-07)~~

~~30. **Treatment Plan Review.** The practice of obtaining input from members of a participant's interdisciplinary team that is focused on evaluating the programs, progress, and future plans of a participant. This review should provide feedback and suggestions intended to help team members and the participant to accomplish the participant's goals identified on the participant's individualized treatment plan. (5-8-09)~~

~~31. **USPRA.** The United States Psychiatric Rehabilitation Association is an association that works to improve and promote the practice and outcomes of psychiatric rehabilitation and recovery. USPRA also maintains a certification program to promote the use of qualified staff to work for individuals with mental illness. <http://www.uspra.org> (5-8-09)~~

~~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. (4-4-13)~~

~~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. (4-4-13)~~
- ~~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. (4-4-13)~~
- ~~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. (4-4-13)~~
- ~~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. (4-4-13)~~
- ~~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. (4-4-13)~~
- ~~06. Level of Care Criteria—Psychosocial Rehabilitation (PSR) Services and Partial Care Services for Adults. (4-4-13)~~
- ~~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.e.i. through 112.06.e.viii. of this rule on either a continuous or an intermittent, at least once per year, basis. (4-4-13)~~
- ~~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. (4-4-13)~~
- ~~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: (4-4-13)~~
- ~~i. Vocational/educational; (4-2-08)~~

- ~~ii: Financial; (4-2-08)~~
- ~~iii: Social relationships/support; (4-2-08)~~
- ~~iv: Family; (4-2-08)~~
- ~~v: Basic living skills; (4-2-08)~~
- ~~vi: Housing; (4-2-08)~~
- ~~vii: Community/legal; or (4-2-08)~~
- ~~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)~~

~~113. (RESERVED)~~

~~114. ENHANCED OUTPATIENT MENTAL HEALTH SERVICES: COMPREHENSIVE DIAGNOSTIC ASSESSMENT.~~

~~In order to determine eligibility for enhanced outpatient mental health services, a comprehensive diagnostic assessment must first be completed by one (1) of the licensed professionals listed under IDAPA 16-03-09, "Medicaid Basic Plan Benefits," Subsection 715.02. For participants seeking services beyond twelve (12) months, a review of the existing assessment is required to determine whether a full comprehensive diagnostic assessment or an updated assessment is needed to reflect the participant's current status on an annual basis. The treatment staff's determination that the latest assessment accurately represents the status of the participant must be documented in the medical record. In such cases, only an updated assessment that includes a new mental status examination is required. The assessment must be directed toward formulation of a diagnosis and a written individualized treatment plan. The~~

~~participant, and the participant's parent or guardian when appropriate, must take part in the assessment to the fullest extent possible. The comprehensive diagnostic assessment must include a five (5) axes diagnosis under DSM-IV-TR documented in a face-to-face evaluation, a complete psychiatric and medical history, a current mental status examination, a description of the participant's readiness and motivation to engage in treatment, participate in the development of his treatment plan and adhere to his treatment plan, treatment recommendations including level of care, and any other information that contributes to the assessment of the participant's current psychiatric status and need for services. (5-8-09)~~

~~115. (RESERVED)~~

~~116. ENHANCED OUTPATIENT MENTAL HEALTH SERVICES – WRITTEN INDIVIDUALIZED TREATMENT PLAN.~~

~~A written individualized treatment plan must be developed and implemented for each participant of enhanced outpatient mental health services as a means to address the enhanced service needs of the participant. Each individualized treatment plan must specify the individual staff person responsible for providing each service, and the amount, frequency and expected duration of treatment. The development of the initial treatment plan is reimbursable if conducted by a professional identified in Subsections 131.01 through 131.03 of these rules. When the assessment indicates that the participant would benefit from psychotherapy or additional diagnostic services, the treatment plan must be completed by a qualified professional listed under IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Subsection 715.03. (3-29-12)~~

~~01. Goals. Services identified on the treatment plan must support the goals that are applicable to the participant's identified needs. For adults, their treatment plan must incorporate the need for psychiatric services identified by the comprehensive diagnostic assessment. For children, their treatment plan must incorporate the substantial impairment areas identified by the CAFAS. Participant's goals may include any of the following: (3-29-12)~~

~~a. Skill Training. The goal is to assist the participant in regaining skills that have been lost due to the symptoms of his mental illness or that would have been otherwise developed except for the interference of his mental health condition. Through skill training, the participant should achieve maximum reduction of symptoms of mental illness or serious emotional disturbance that will allow for the greatest adjustment to living in the community. (5-8-09)~~

~~b. Community Reintegration. The goal is to provide practical information and support for the participant to be able to be effectively involved in the rehabilitation process. (5-8-09)~~

~~c. Partial care. The goal is to decrease the severity and acuity of presenting symptoms so that the participant may be maintained in the least restrictive setting and to increase the participant's interpersonal skills in order to obtain the optimal level of interpersonal adjustment. (3-19-07)~~

~~d. Psychotherapy. The goal is to engage in active treatment that involves psychological strategies for problem resolution to promote optimal functioning and a condition of improved mental health. (5-8-09)~~

~~e. Pharmacological Management. The goal is to obtain a decrease or remission of symptoms of psychiatric illness and improve quality of life through the use of pharmacological agents without causing adverse effects. (5-8-09)~~

~~02. Plan Content. An individualized treatment plan must meet the requirements listed in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 710. Additionally, at least one (1) objective is required in the areas that are most likely to lead to the greatest level of stabilization. (5-8-09)~~

~~03. Plan Timeframes. An individualized treatment plan must be developed and signed by a licensed physician or other licensed practitioner of the healing arts within thirty (30) calendar days from initial contact. Intermittent treatment plan reviews must occur as needed to incorporate progress, different goals, or change in treatment focus, but must not exceed one hundred twenty (120) days between reviews. An updated treatment plan must be developed for participants who will continue in treatment beyond twelve (12) months. (3-29-12)~~

~~04. **Choice of Providers.** The participant or his parent or legal guardian must be allowed to choose whether or not he desires to receive enhanced outpatient mental health services and which provider agency or agencies he would like to assist him in accomplishing the objectives stated in his individualized treatment plan. Documentation must be included in the participant's medical record showing that the participant or his parent or legal guardian has been informed of his rights to refuse services and choose provider agencies. (5-8-09)~~

~~05. **No Duplication of Services.** The provider agency or its designee must monitor, coordinate, and jointly plan with all known providers to a participant to prevent duplication of services provided to enhanced outpatient mental health services participants through other Medicaid reimbursable and non-Medicaid programs. (3-19-07)~~

~~117. **ENHANCED OUTPATIENT MENTAL HEALTH SERVICES: MENTAL HEALTH CLINICS (MHC).** All rules in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections 707 through 718 apply to Mental Health Clinic services in this chapter with the enhancements described under Section 118 of these rules. (5-8-09)~~

~~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)~~

~~e. **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 services. (4-4-13)~~

~~119. **ENHANCED OUTPATIENT MENTAL HEALTH SERVICES: PROVIDER REIMBURSEMENT.**~~

~~01. **Medical Assistance Upper Limit.** The Department's medical assistance upper limit for reimbursement is the lower of: (3-21-12)~~

~~a. The mental health clinic's actual charge; or (3-21-12)~~

~~b. The allowable charge as established by the Department's medical assistance fee schedule. Mental health clinic reimbursement is subject to the provisions of 42 CFR 447.321. (3-21-12)~~

~~02. **Reimbursement.** For physician services where mid-levels are authorized to administer mental health services, the Department reimburses based on the Department's medical assistance fee schedule. (3-21-12)~~

~~120. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR):~~

~~Under 42 CFR 440.130(d) and in accordance with Section 39-3124, Idaho Code, the Department in each region will cover psychosocial rehabilitative services (PSR) for maximum reduction of mental disability. For PSR provided by a school district under an individualized education plan (IEP), refer to IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 850. (3-19-07)~~

~~121. -- 122. (RESERVED)~~

~~123. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR): DESCRIPTIONS:~~

~~All services provided must be clinically appropriate in content, service location and duration and based on measurable and behaviorally specific and achievable objectives in accordance with the treatment plan. In addition to the services described in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 709, the PSR program consists of the following services described in Subsections 123.01 through 123.04 of this rule. (5-8-09)~~

~~01. Skill Training The service of skill training must be provided in accordance with the objectives specified in the individualized treatment plan. Skill training is reimbursable if provided by an agency with a current provider agreement and the agency staff delivering the service meet the qualifications, in accordance with Section 131 of these rules. Skill training includes one (1) or more of the following: (5-8-09)~~

~~a. Assistance in gaining and utilizing skills necessary to function adaptively in home and community settings and attain or retain capability for independence. This includes helping the participant learn personal hygiene and grooming, selecting and acquiring appropriate clothing, and other self-care skills needed for community integration. This service cannot be duplicative of other services the participant may be receiving from other programs. (5-8-09)~~

~~b. Assistance in gaining and utilizing skills necessary for managing personal finances, living arrangements, and daily home care duties. (5-8-09)~~

~~c. Individual interventions in social skill training directly related to the participant's mental illness to improve community functioning and to facilitate appropriate interpersonal behavior. (5-8-09)~~

~~d. Assistance in gaining and utilizing cognitive skills for problem solving everyday dilemmas, listening, symptom management, and self-regulation. (5-8-09)~~

~~e. Assistance for gaining and utilizing communications skills for the participant to be able to express himself coherently to others including other service providers. (5-8-09)~~

~~i. For participants receiving skill training for communication issues who cannot express necessary information to his healthcare providers or understand instructions given to him by healthcare providers, the PSR agency staff person may accompany the participant to medical appointments as a part of the communication skill training service. (5-8-09)~~

~~ii. For reimbursement purposes, the PSR agency staff person must deliver a skill training service that is identified on the treatment plan during the appointment. Travel time and time waiting to meet with the Medicaid provider are not reimbursable. (5-8-09)~~

~~iii. The individualized treatment plan must identify how the issue is to be resolved and include objectives toward independence in this area. For children, this service is not intended to replace the parent's responsibility in advocating for or attending appointments for their child. (5-8-09)~~

~~f. Medication education may be provided by a licensed physician, licensed nurse, or a licensed practitioner of the healing arts within the scope of his practice under state law. This service focuses on educating the participant about the role and effects of medications in treating symptoms of mental illness, symptom management, and adherence to the treatment regimen. (5-8-09)~~

~~g. Assistance for gaining and utilizing skills needed by the participant to arrange for his transportation, or to access and utilize the public transportation system. (5-8-09)~~

~~02. Community Reintegration. The service of community reintegration must be provided in accordance with the objectives specified in the individualized treatment plan. The service may include: (5-8-09)~~

~~a. Assisting the participant with self administration of medications by verbal prompts according to the direction of the prescribing physician. Verbal prompts must be delivered face-to-face and an assessment of the participant's functioning must be completed and documented. In cases where verbal prompts by phone are justified, they must be specifically prior authorized. (5-8-09)~~

~~b. Assisting the participant with maintaining or obtaining services that the participant usually takes care of for himself but is temporarily unable to do so because of an exacerbation of his symptoms. The targeted skills must be necessary to maintain his status in the home or community. (5-8-09)~~

~~e. Working with the participant's legal guardian immediately following the delivery of a mental health service in order to provide follow-up and support actions that facilitate the participant's positive response to the services. (5-8-09)~~

~~03. Group Skill Training. Group skill training must be provided in accordance with the objectives specified in the individualized treatment plan. Group skill training is a service provided to two (2) or more individuals concurrently. Group skill training is reimbursable if provided by an agency with a current provider agreement and the agency staff person delivering the service meets the qualifications in accordance with Section 131 of these rules. This service includes one (1) or more of the following: (5-8-09)~~

~~a. Medication education groups provided by a licensed physician, licensed nurse, or a licensed practitioner of the healing arts within the scope of his practice under state law. This service focuses on educating participants about the role and effects of medications in treating symptoms of mental illness, symptom management, and skills for adhering to their medical regimen. These groups must not be used solely for the purpose of group prescription writing; (5-8-09)~~

~~b. Community Living skills groups that focus on occupation related symptom management, symptom reduction, and skills related to appropriate job or school related behaviors; (5-8-09)~~

~~e. Communication and interpersonal skills groups, the goals of which are to improve communication skills and facilitate appropriate interpersonal behavior; (3-19-07)~~

~~d. Symptom management groups to identify mental illness symptoms which are barriers to successful community integration, crisis prevention, problem identification and resolution, coping skills, developing support systems and planning interventions with teachers, employers, family members and other support persons; and (3-19-07)~~

~~e. Activities of daily living groups which help participants learn skills related to personal hygiene, grooming, household tasks, use of transportation, socialization, and money management. (3-19-07)~~

~~04. Crisis Intervention Service. Crisis support includes intervention for a participant in crisis situations to ensure his health and safety or to prevent his hospitalization or incarceration. Crisis intervention service is reimbursable if provided by an agency with a current provider agreement and the agency staff delivering the service meet the qualifications under Section 131 of these rules. A crisis may be precipitated by loss of housing, employment or reduction of income, risk of incarceration, risk of physical harm, family altercation or other emergencies. PSR agency staff may deliver direct services within the scope of these rules or refer the participant to community resources to resolve the crisis or both. Crisis support may be provided prior to or after the completion of the assessment and service plan. Service is reimbursable if there is documentation that supports the need for the service and the individualized treatment is either authorized the next business day following the beginning of the crisis or prior authorized in anticipation of the need for crisis support. Crisis hours are authorized on a per incident basis. (5-8-09)~~

~~a. Crisis Support in a Community. Limitations to reimbursement in this place of service are described in Subsection 124 of these rules. (3-19-07)~~

- ~~b. Crisis Support in an Emergency Department. (3-19-07)~~
- ~~i. A service provided in a hospital emergency department as an adjunct to the medical evaluation completed by the emergency department physician. This evaluation may include a psychiatric assessment. (3-19-07)~~
- ~~ii. The goal of this service is to assist in the identification of the least restrictive setting appropriate to the needs of the participant. (3-19-07)~~
- ~~e. Crisis Support Limitations. Crisis support services are available up to a total of ten (10) hours per week. This limitation is in addition to any other PSR service hours within that same time frame. Crisis support hours must be authorized by the Department. (5-8-09)~~

~~**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. 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. (4-4-13)~~

~~**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)

~~125. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR): EXCLUDED SERVICES NOT REIMBURSABLE UNDER MEDICAID.~~

~~Excluded services are those services that are not reimbursable under Medicaid PSR. The following is a list of those services:~~ (3-19-07)

~~01. Inpatient. Treatment services rendered to participants residing in inpatient medical facilities including nursing homes, or hospitals, except those identified in Subsection 140.07 of these rules.~~ (3-29-12)

~~02. Recreational and Social Activities. Activities which are primarily social or recreational in purpose.~~ (3-19-07)

~~03. Employment. Job specific interventions, job training and job placement services which includes helping the participant develop a resume, applying for a job, and job training or coaching.~~ (3-19-07)

~~04. Household Tasks. Staff performance of household tasks and chores.~~ (3-19-07)

~~05. Treatment of Other Individuals. Treatment services for persons other than the identified participant.~~ (3-19-07)

~~06. Services Primarily Available Through Service Coordination Agencies. Any service that is typically addressed by Service Coordination as described in Section 727 of these rules, is not included in the program of psychosocial rehabilitation services. The PSR agency staff should refer participants to service coordination agencies for these services.~~ (5-8-09)

~~07. Medication Drops. Delivery of medication only;~~ (3-19-07)

~~08. Services Delivered on an Expired Individualized Treatment Plan. Services provided between the expiration date of one (1) plan and the start date of the subsequent treatment plan.~~ (3-19-07)

~~09. Transportation. The provision of transportation services and staff time to transport.~~ (3-19-07)

~~10. Inmate of a Public Institution. Treatment services rendered to participants who are residing in a public institution as defined in 42 CFR 435.1009.~~ (3-19-07)

~~11. Services Not Listed. Any other services not listed in Section 123 of these rules.~~ (3-19-07)

~~126-127. (RESERVED)~~

~~128. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR): RESPONSIBILITIES OF THE DEPARTMENT.~~

~~The Department will administer the provider agreement for the provision of PSR agency services and is responsible~~

~~for the following tasks:~~

~~(5-8-09)~~

~~01. **Credentialing.** The Department is responsible for ensuring Medicaid PSR agencies meet credentialing requirements described in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 712. (3-19-07)~~

~~02. **Prior Authorization Process.** Reimbursement for specific services that require prior authorization will be authorized from the date the required documentation is received by the Department. The Department will complete the prior authorization process within ten (10) working days from the date all the required information is received from the provider. The specific documentation that is required for prior authorization is dependent on the request for additional services. The Department must authorize the number of hours and type of services, as specifically required in these rules, which could be reasonably expected to address the participant's needs in relation to those services. (3-29-12)~~

~~03. **Notice of Decision.** At the point the Department makes a decision that a participant is ineligible for specific services, a notice of decision citing the reason(s) the participant is ineligible for those services must be issued by the Department. The notice of decision must be sent to the adult participant and a copy to his legal guardian, if any. When the participant is a minor child, the notice of decision must be sent to the minor child's parent or legal guardian. (3-29-12)~~

~~04. **Responding to Requests for Services.** When the Department is notified, in writing, by the provider of services that require prior authorization, the Department must review the request and either approve or deny the request within ten (10) working days of receipt. (3-29-12)~~

~~05. **Service System.** The Department is responsible for the development, maintenance and coordination of regional, comprehensive and integrated service systems. (3-19-07)~~

~~**129. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR): PROVIDER RESPONSIBILITIES.**~~

~~01. **Provider Agreement.** Each provider must enter into a provider agreement with the Division of Medicaid for the provision of PSR agency services and also is responsible for the following tasks: (5-8-09)~~

~~02. **Service Availability.** Each provider must assure provision of PSR agency services to participants on a twenty-four (24) hour basis. (5-8-09)~~

~~03. **Comprehensive Diagnostic Assessment and Individualized Treatment Plan Development.** The provider agency is responsible to conduct a comprehensive diagnostic assessment and develop an individualized treatment plan for each new participant with input from the interdisciplinary team if these services have not already been completed by another provider. In the event the agency makes a determination that it cannot serve the participant, the agency must make appropriate referrals to other agencies to meet the participant's identified needs. (3-29-12)~~

~~04. **Individualized Treatment Plan.** The provider must develop an individualized treatment plan when one (1) has not already been developed in accordance with Section 116 of these rules. Providers must update the participant's treatment plan at least every one hundred twenty (120) days, or more frequently as necessary, until the participant is discharged from services. The signature of a licensed physician, or other licensed practitioner of the healing arts within the scope of his practice under state law is required on the individualized treatment plan indicating the services are medically necessary at least annually. The date of the initial plan is the date it is signed by the physician. (3-29-12)~~

~~05. **Changes to Individualized Treatment Plan Objectives.** When a provider believes that an individualized treatment plan needs to be revised, the provider should make those revisions in collaboration with the participant's interdisciplinary team and obtain required signatures. Amendments and modifications to the treatment plan objectives must be justified and documented in the medical record. (5-8-09)~~

~~06. **Effectiveness of Services.** Effectiveness of services, as measured by a participant's achievement of his plan objectives, must be monitored by the provider and changes to the individualized treatment plan must be initiated when service needs change or interventions are shown to be ineffective. These measures must be included on~~

~~the participant's next treatment plan review. (5-8-09)~~

~~07. **Healthy Connections Referral.** Providers must obtain a Healthy Connections referral if the participant is enrolled in the Healthy Connections program. (3-19-07)~~

~~130. **PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR): PROVIDER AGENCY REQUIREMENTS.** Each agency that enters into a provider agreement with the Department for the provision of PSR services must meet the following requirements: (3-19-07)~~

~~01. **Agency.** A PSR agency must be a proprietorship, partnership, corporation, or other entity, employing at least two (2) staff qualified to deliver PSR services under Section 131 of these rules, and offering both direct and administrative services. Administrative services may include such activities as billing, hiring staff, assuring staff qualifications are met and maintained, setting policy and procedure, payroll. (5-8-09)~~

~~02. **Criminal History Checks.** (3-19-07)~~

~~a. The agency must verify that all employees, subcontractors, or agents of the agency providing direct care or PSR services have complied with IDAPA 16.05.06, "Criminal History and Background Checks." (3-19-07)~~

~~b. Once an employee, subcontractor, or agent of the agency has completed a self declaration form and has been fingerprinted, he may begin working for the agency on a provisional basis while awaiting the results of the criminal history check. (3-19-07)~~

~~c. Once an employee, subcontractor, agent of the agency has received a criminal history clearance, any additional criminal convictions must be reported to the Department when the agency learns of the conviction. (3-19-07)~~

~~03. **PSR Agency Staff Qualifications.** The agency must assure that each agency staff person delivering PSR services meets at least one (1) of the qualifications in Section 131 of these rules and maintains ongoing compliance with the education requirements defined in Subsection 130.09 or Subsection 131.03.c.iii. of this rule. (3-29-12)~~

~~04. **Additional Terms.** The agency must have signed additional terms to the general provider agreement with the Department. The additional terms must specify what direct services must be provided by the agency. The agency's additional terms may be revised or cancelled at any time. (5-8-09)~~

~~05. **Agency Employees and Subcontractors.** Employees and subcontractors of the agency are subject to the same conditions, restrictions, qualifications and rules as the agency. (3-19-07)~~

~~06. **Supervision.** The agency must provide staff with adequate case specific supervision to insure that the tasks on a participant's individualized treatment plan can be implemented effectively in order for the individualized treatment plan objectives to be achieved. An agency staff person without a Master's degree must be supervised by a licensed master's level professional, as defined in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Subsection 715.03. PSR agency staff must be supervised in accordance with their applicable status as follows: (3-29-12)~~

~~a. Certified Psychiatric Rehabilitation Practitioners (CPRP) may provide case specific supervision to other CPRP applicants when the supervising CPRP is directly supervised by a Master's level professional defined in Subsection 715.03. (3-29-12)~~

~~b. PSR Specialist applicants who are working toward, or have achieved, the USpra Certificate in Children's Psychiatric Rehabilitation must be supervised by a licensed master's level professional, as defined in Subsection 715.03. (3-29-12)~~

~~c. The supervisors must ensure that the individual staff members demonstrate adequate competency to work with all populations assigned to them. (3-29-12)~~

~~d. Case-specific supervisory contact must be made weekly, at a minimum, with staff for whom supervision is a requirement. Documentation of supervision must be maintained by the agency and be available for review by the Department. (3-19-07)~~

~~e. An agency must assure that clinical supervision, as required in the rules of the Idaho Bureau of Occupational Licenses and the Idaho State Board of Medicine, is available to all staff who provide psychotherapy. The amount of supervision should be adequate to ensure that the individualized treatment plan objectives are achieved. Documentation of supervision must be maintained by the agency and be available for review by the Department. (5-8-09)~~

~~f. The licensed physician or other licensed practitioner of the healing arts must review and sign the individualized treatment plan as an indicator that the services are medically necessary and prescribed. (5-8-09)~~

~~07. **Staff to Participant Ratio.** The following treatment staff to participant ratios for group treatment services must be observed: (5-8-09)~~

~~a. For children under four (4) years of age, the ratio must be 1:1. No group work is allowed. (5-8-09)~~

~~b. For children four (4) to twelve (12) years of age, the ratio must be 1:6 for groups. Group size must not exceed twelve (12) participants. (5-8-09)~~

~~c. For children over twelve (12) years of age, the ratio must be 1:10 for groups. Group size must not exceed twelve (12) participants. (5-8-09)~~

~~08. **Family Participation Requirement.** The following standards must be observed for services provided to children: (5-8-09)~~

~~a. For a child under four (4) years of age, the child's parent or legal guardian should be actively involved by being present on the premises and available for consultation with the staff during the delivery of mental health services. The child's parent or legal guardian does not have to participate in the treatment session or be present in the room in which the service is being conducted; (5-8-09)~~

~~b. For a child four (4) to twelve (12) years of age, the child's parent or legal guardian should be actively involved. The child's parent or legal guardian does not have to participate in the treatment session, but must be available for consultation with the staff providing the service; (5-8-09)~~

~~c. For a child over twelve (12) years of age, the child's parent or legal guardian should be involved, as appropriate. If the interdisciplinary team recommends that the child's parent or legal guardian not be involved in any aspect of the treatment, then the reasons for excluding the child's parent or legal guardian must be documented in the medical record. (5-8-09)~~

~~d. For a child whose parent or legal guardian does not participate in the services, the provider must document efforts made to involve the parent or legal guardian and must make appropriate adjustments to the treatment plan to address the parent or legal guardian's lack of involvement. (5-8-09)~~

~~e. Nothing in these rules may interfere with compliance to provisions of Section 16-2428, Idaho Code, regarding confidentiality and disclosure of children's mental health information. (5-8-09)~~

~~09. **Continuing Education.** The agency must assure that all staff complete twenty (20) hours of continuing education annually from the date of hire. Four (4) hours every four (4) years must be in ethics training. Staff who are not licensed must select the discipline closest to their own and use the continuing education standards attached to that professional license. Nothing in these rules will affect professional licensing continuing education standards and requirements set by the Bureau of Occupational Licenses. (3-19-07)~~

~~10. **Crisis Service Availability.** PSR agencies must provide twenty-four (24) hour crisis response services for their participants or make contractual arrangement for the provision of those services. (3-19-07)~~

- ~~11. Restraints and Seclusion. (5-8-09)~~
- ~~a. Restraints and seclusion must not be employed under any circumstances except when an agency staff person employs physical holds as an emergency response to assault or aggression or other immediate safety risks in accordance with the following requirements in Subsections 130.11.a.i. through 130.11.a.iii.: (5-8-09)~~
- ~~i. The agency must have an accompanying policy and procedure that addresses the use of the such holds. (5-8-09)~~
- ~~ii. The physical holds employed must be a part of a nationally recognized non-violent crisis intervention model. (5-8-09)~~
- ~~iii. The staff person who employs the hold technique(s) must have evidence in his personnel record of current certification in the method. (5-8-09)~~
- ~~b. Provider agencies must develop policies that address the agency's response by staff to emergencies involving assault or aggression or other immediate safety risks. All policies and procedures must be consistent with licensure requirements, federal, state, and local laws, and be in accordance with accepted standards of healthcare practice. (5-8-09)~~
- ~~12. Building Standards, Credentialing and Ethics. All PSR agencies must comply with IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 712 and Subsection 714.14. PSR agencies whose participants are in the agency building for treatment purposes must follow the rules in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Subsection 714.15. (5-8-09)~~
- ~~131. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR): AGENCY STAFF QUALIFICATIONS. All agency staff delivering direct services must have at least one (1) of the following credentials. (5-8-09)~~
- ~~01. Any of the Professions Listed Under IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Subsection 715.01. (5-8-09)~~
- ~~02. Clinician. A clinician must hold a master's degree, be employed by a state agency and meet the minimum standards established by the Idaho Division of Human Resources and the Idaho Department of Health and Welfare Division of Human Resources. (5-8-09)~~
- ~~03. Psychosocial Rehabilitation (PSR) Specialist. (5-8-09)~~
- ~~a. Individuals hired as of June 30, 2009, who are working as PSR Specialists to deliver Medicaid-reimbursable mental health services may continue to do so until January 1, 2012. In order to continue working as a PSR specialist beyond this date, the worker must have completed a certificate program or earned a certification in psychiatric rehabilitation based upon the primary population with whom he works in accordance with the requirements set by the USPRA. (3-29-12)~~
- ~~b. Individuals hired between July 1, 2009, and October 31, 2010, who are working as PSR Specialists to deliver Medicaid-reimbursable mental health services may continue to do so for a period not to exceed thirty (30) months from their initial date of hire. In order to continue as a PSR Specialist beyond a total period of thirty (30) months, the worker must have completed a certificate program or earned a certification in psychiatric rehabilitation based upon the primary population with whom he works in accordance with the requirements set by the USPRA. (3-29-12)~~
- ~~c. Individuals hired as of November 1, 2010, who are working as PSR Specialists to deliver Medicaid-reimbursable mental health services may continue to do so for a period not to exceed thirty (30) months from the initial date of hire. In order to continue as a PSR Specialist beyond a total period of thirty (30) months, the worker must have completed a certificate program or earned a certification in psychiatric rehabilitation based upon the primary population with whom he works in accordance with the requirements set by the USPRA. Such workers must have a bachelor's degree or higher in any field. (3-29-12)~~

- ~~i. Credential Required for PSR Specialists Working Primarily with Adults. (3-29-12)~~
- ~~(1) Applicants who intend to work primarily with adults, age eighteen (18) or older, must become a Certified Psychiatric Rehabilitation Practitioner in accordance with the USPRA requirements. (3-29-12)~~
- ~~(2) Applicants who work primarily with adults, but also intend to work with participants under the age of eighteen (18), must have training addressing children's developmental milestones, or have evidence of classroom hours in equivalent courses. The worker's supervisor must determine the scope and amount of training the worker needs in order to work competently with children assigned to the worker's caseload. (3-29-12)~~
- ~~ii. Credential Required for PSR Specialists Working Primarily with Children. (3-29-12)~~
- ~~(1) Applicants who intend to work primarily with children under the age of eighteen (18) must obtain a certificate in children's psychiatric rehabilitation in accordance with the USPRA requirements. (3-29-12)~~
- ~~(2) Applicants who primarily work with children, but who also intend to work with participants eighteen (18) years of age or older, must have training or have evidence of classroom hours addressing adult issues in psychiatric rehabilitation. The worker's supervisor must determine the scope and amount of training the worker needs in order to competently work with adults assigned to the worker's caseload. (3-29-12)~~
- ~~iii. Classroom Hours. Classroom hours completed for a USPRA credential may be used toward a PSR specialist applicant's continuing education requirements as described in Subsection 130.09 of these rules. The completion of required classroom hours must be documented in the agency's personnel records. (3-29-12)~~
- ~~d. An individual who is qualified to apply for licensure to the Idaho Bureau of Occupational Licenses, in the professions identified under Subsections 131.01 through 131.03 of this rule, who has failed his licensing exam or has been otherwise denied licensure is not eligible to provide services under the designation of PSR Specialist unless this individual has obtained one (1) of the USPRA credentials. (3-29-12)~~

~~132.—135. (RESERVED)~~

~~136. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR): RECORD REQUIREMENTS FOR PROVIDERS.~~

~~In addition to the development and maintenance of the individualized treatment plan, the following documentation must be maintained by the provider of PSR services: (3-19-07)~~

- ~~01. Name. Name of participant. (3-19-07)~~
- ~~02. Provider. Name of the provider agency and the agency staff person delivering the service. (3-19-07)~~
- ~~03. Date, Time, Duration of Service, and Justification. Documentation of the date, time, and duration of service, and the justification for the length of time which is billed must be included in the record. (3-19-07)~~
- ~~04. Documentation of Progress. The written description of the service provided, the place of service, and the response of the participant must be included in the progress note. A separate progress note is required for each contact with a participant. (3-19-07)~~
- ~~05. Treatment Plan Review. A documented outcome specific review of progress toward each individualized treatment plan goal and objective must be kept in the participant's file. These reviews should occur intermittently, but not more than one hundred twenty (120) days apart on a continual basis until the participant is discharged. (3-29-12)~~
- ~~a. A copy of the review must be sent to the Department upon request. Failure to do so may result in a recoupment of reimbursement provided for services delivered after the intermittent staffing review date. (3-29-12)~~
- ~~b. The review must also include a reassessment of the participant's continued need for services. The~~

~~review must occur at least every one hundred twenty (120) days and be conducted in visual contact with the participant. For children, the review must include a new CAFAS/PECFAS for the purpose of measuring changes in the participant's functional impairment. (5-8-09)~~

~~e. After eligibility has been determined, subsequent CAFAS/PECFAS scores are used to measure progress and functional impairment and should not be used to terminate services. (3-19-07)~~

~~06. **Signature of Staff Delivering Service.** The legible, dated signature, with degree credentials listed, of the staff person delivering the service. (3-19-07)~~

~~07. **Choice of Provider.** Documentation of the participant's choice of provider must be maintained in the participant's file prior to the implementation of the individualized treatment plan. (3-19-07)~~

~~08. **Closure of Services.** A discharge summary must be included in the participant's record and submitted to the Department identifying the date of closure, reason for ending services, progress on objectives, and referrals to supports and other services. (3-19-07)~~

~~09. **Payment Limitations.** Reimbursement is not allowed for missed appointments, attempted contacts, travel to provide the service, leaving messages, scheduling appointments for any purpose, transporting participants, or documenting services. For services paid at the fifteen (15) minute incremental rate, providers must comply with Medicaid billing requirements. (5-8-09)~~

~~10. **Informed Consent.** The agency must ensure that participants who receive services through the agency have obtained informed consent from the participant or his legal guardian indicating agreement with all of the elements on the individualized treatment plan including choice of the provider agency, designated services, times, dates, frequencies, objectives, goals, and exit criteria. For a minor child, informed consent must be obtained from the minor's parent or legal guardian. (5-8-09)~~

~~137.—139. (RESERVED)~~

~~140. **PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR): PROVIDER REIMBURSEMENT.** Payment for PSR agency services must be in accordance with rates established by the Department. The rate paid for services includes documentation. (5-8-09)~~

~~01. **Duplication.** Payment for services must not duplicate payment made to public or private entities under other program authorities for the same purpose. (3-19-07)~~

~~02. **Number of Staff Able to Bill.** Only one (1) staff member may bill for an assessment, individualized treatment plan, or case review when multiple agency staff are present. (5-8-09)~~

~~03. **Medication Prescription and Administration.** Medication prescription and administration may be billed only by physicians and other medical staff qualified under Title 54, Chapter 18, Idaho Code. (3-19-07)~~

~~04. **Recoupment.** Billing for services and receiving reimbursement for services that were not rendered or failure to comply with these rules must be cause for recoupment of payments for services, sanctions, or both. (3-19-07)~~

~~05. **Access to Information.** Upon request, the provider must provide the Department with access to all information required to review compliance with these rules. Failure by the provider to comply with such a request must result in termination of the Medicaid PSR Provider Agreement. (3-19-07)~~

~~06. **Evaluations and Tests.** Evaluations and tests are a reimbursable service if provided in accordance with the requirements in IDAPA 16.03.09, "Medicaid Basic Plan Benefits." (5-8-09)~~

~~07. **Psychiatric or Medical Inpatient Stays.** Community reintegration services may be provided during the last thirty (30) days of inpatient stay or if the inpatient stay is not expected to last longer than thirty (30) days, when not duplicating those services included in the responsibilities of the inpatient facility. Treatment services are the~~

~~responsibility of the facility. (5-8-09)~~

~~08. Reimbursement. (3-21-12)~~

~~a. For physician services where mid levels are authorized to administer mental health services, the Department reimburses based on the Department's medical assistance fee schedule. (3-21-12)~~

~~b. Crisis assistance for adults with serious and persistent mental illness (SPMI) will be paid based on the same reimbursement methodology as service coordination crisis intervention services defined in Subsection 736.09 of these rules. (3-21-12)~~

~~141.—145. (RESERVED)~~

~~146. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR): QUALITY OF SERVICES.  
The Department must monitor the quality and outcomes of PSR agency services provided to participants, in coordination with the Divisions of Medicaid, Management Services, and Behavioral Health. (5-8-09)~~

~~147.—199. (RESERVED)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**655. DEVELOPMENTAL THERAPY: PROVIDER QUALIFICATIONS AND DUTIES.**

**01. 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)

**02. Developmental Therapy Paraprofessionals.** Paraprofessionals, such as aides or therapy technicians, may be used by an agency to provide developmental therapy if they are under the supervision of a Developmental Specialist. A developmental therapy paraprofessional must be at least seventeen (17) years of age. (7-1-13)

**03. Requirements for Collaboration with Other Providers. (4-4-13)**

~~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) outpatient behavioral health service* plan. The participant's file must also reflect how these plans have been integrated into the DDA's plan of service for each participant. ~~(4-4-13)~~(9-1-13)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.*~~ (4-4-13)

**(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, or by the Infant Toddler Program. Providers of habilitative intervention must meet the following minimum qualifications: (7-1-13)

**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 Agencies (DDA)," by an independent Medicaid provider under agreement with the Department, or by the Infant Toddler Program. Providers of therapeutic consultation must meet the following minimum qualifications: (7-1-13)

**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 or the Infant Toddler Program 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. (7-1-13)

**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)," by an independent Medicaid provider under agreement with the Department, or by the Infant Toddler Program. Providers of crisis intervention must meet the following minimum qualifications: (7-1-13)

**a.** Crisis Intervention professionals must meet the minimum therapeutic consultation provider qualifications described in Subsection 685.05 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 DD 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 or the Infant Toddler Program on a continuous and regularly scheduled basis. (7-1-13)

**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 and the Infant Toddler Program must employ an adequate number of clinical supervisors to ensure quality service delivery and participant satisfaction. (7-1-13)

**09. Requirements for Collaboration with Other Providers.** (4-4-13)

~~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 accommodate the participant's mental health needs and to ensure that none of the therapeutic methods are contraindicated or delivered in a manner that presents a risk to the participant's mental health status. (7-1-13)(9-1-13)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.* (4-4-13)

**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)**

**720. SERVICE COORDINATION.**

The Department will purchase service coordination for persons eligible for Enhanced Benefits who are unable, or have limited ability to gain access, coordinate or maintain services on their own or through other means. These rules are not applicable to behavioral health service coordination, also known as case management services, provided under the Idaho Behavioral Health Plan (IBHP) included in IDAPA 16.03.09, "Medicaid Basic Plan Benefits." (3-19-07)(9-1-13)T

**721. SERVICE COORDINATION: DEFINITIONS.**

The following definitions apply for Sections 721 through 736 of these rules. (5-8-09)

**01. Agency.** An agency is a business entity that provides management, supervision, and quality assurance for service coordination and includes at least two (2) individuals, one (1) supervisor and a minimum of one (1) service coordinator. (5-8-09)

**02. Brokerage Model.** Referral or arrangement for services identified in an assessment. This model does not include the provision of direct services. (3-19-07)

**03. Conflict of Interest.** A situation in which an agency or person directly or indirectly influences, or appears to influence the direction of a participant to other services for financial gain. (5-8-09)

**04. Crisis.** An unanticipated event, circumstance or life situation that places a participant at risk of at least one (1) of the following: (3-19-07)

a. Hospitalization; (3-19-07)

b. Loss of housing; (3-19-07)

- c. Loss of employment or major source of income; (3-19-07)
- d. Incarceration; or (3-19-07)
- e. Physical harm to self or others, including family altercation or psychiatric relapse. (3-19-07)

~~05.~~ ~~*High Cost Services. As used in Subsection 725.01 of these rules, high cost services are medical services that result in expensive claims payment or significant state general fund expenditure that may include:*~~ (3-19-07)

- ~~a. *Emergency room visits or procedures;*~~ (3-19-07)
- ~~b. *Inpatient medical and psychiatric services;*~~ (3-19-07)
- ~~c. *Nursing home admission and treatment;*~~ (3-19-07)
- ~~d. *Institutional care in jail or prison;*~~ (3-19-07)
- ~~e. *State, local, or county hospital treatment for acute or chronic illness; and*~~ (3-19-07)
- ~~f. *Outpatient hospital services.*~~ (3-19-07)

~~06.~~ **5. Human Services Field.** A particular area of academic study in health care, social services, education, behavioral science or counseling. (5-8-09)

~~07.~~ **6. Paraprofessional.** An adult with a high school diploma or equivalency who has at least twelve (12) months supervised work experience with the population to whom they will be providing services. (5-8-09)

~~08.~~ **7. Person-Centered Planning.** A planning process facilitated by the service coordinator that includes the participant and individuals significant to the participant, to collaborate and develop a plan based on the expressed needs and desires of the participant. For children, this planning process must involve the child's family. (5-8-09)

~~09.~~ **8. Practitioner of the Healing Arts.** For purposes of this rule, a nurse practitioner, physician assistant or clinical nurse specialist. (3-19-07)

~~10.~~ **9. Service Coordination.** Service coordination is a case management activity which assists individuals eligible for Medicaid in gaining and coordinating access to necessary care and services appropriate to the needs of the individual. Service coordination is a brokerage model of case management. (5-8-09)

~~11.~~ **10. Service Coordination Plan.** The service coordination plan, also known in these rules as the "plan," includes two components: (5-8-09)

a. An assessment that identifies the participant's need for service coordination as described in Section 730 of these rules; and (5-8-09)

b. A plan that documents the supports and services required to meet the service coordination needs of the participant as described in Section 731 of these rules. (5-8-09)

~~12.~~ **11. Service Coordination Plan Development.** An assessment and planning process performed by a service coordinator using person-centered planning principles that results in a written service coordination plan. The plan must accurately reflect the participant's need for assistance in accessing and coordinating supports and services. (5-8-09)

~~13.~~ **12. Service Coordinator.** An individual, excluding a paraprofessional, who provides service coordination to a Medicaid eligible participant, is employed by or contracts with a service coordination agency, and meets the training, experience, and other requirements in Section 729 of these rules. (5-8-09)

**143. Supports.** Formal and informal services and activities that are not paid for by the Department and that enable an individual to reside safely in the setting of his choice. (3-19-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**724. -- 725. (RESERVED)**

~~**725. SERVICE COORDINATION: ELIGIBILITY: INDIVIDUALS WITH SERIOUS AND PERSISTENT MENTAL ILLNESS.**~~

~~An adult is eligible for service coordination if he meets the following requirements in Subsections 725.01 through 725.03 of this rule. (5-8-09)~~

~~**01. Uses High-Cost Services.** Is eighteen (18) years of age or older and uses, or has a history of using, high cost medical services associated with periods of increased severity of mental illness. (5-8-09)~~

~~**02. Diagnosis of Mental Illness.** (3-19-07)~~

~~**a.** The participant must have undergone a comprehensive diagnostic assessment that meets the definition in Section 111 of these rules. This assessment must be completed by one (1) of the licensed professionals listed under IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Subsection 715.02, and the participant must meet the criteria for:~~ (5-8-09)

~~**i.** Serious and Persistent Mental Illness (SPMI) that meets the definition in Section 111 of these rules; (5-8-09)~~

~~**ii.** Delirium dementia, and amnesic disorders; other cognitive disorders; and mental disorders due to a general medical condition; or (5-8-09)~~

~~**iii.** Schizoid, schizotypal, paranoid personality disorders. (5-8-09)~~

~~**b.** If the only diagnosis is an intellectual disability or is a substance use related disorder, then the person is not included in the target population for mental health service coordination. (5-8-09)~~

~~**03. Need Assistance.** Have mental illness of sufficient severity to cause a disturbance in their performance or coping skills in at least two (2) of the following areas, on either a continuous (more than one (1) year) or an intermittent (at least once per year) basis: (5-8-09)~~

~~**a.** Vocational or academic: Is unemployed, unable to work or attend school, is employed in a sheltered setting or supportive work situation, or has markedly limited skills and a poor work history. (3-19-07)~~

~~**b.** Financial: Requires public financial assistance for out-of-hospital maintenance and may be unable to procure such assistance without help, or the person is unable to support himself or manage his finances without assistance. (3-19-07)~~

~~**c.** Social and interpersonal: Has difficulty in establishing or maintaining a personal social support system, has become isolated, has no friends or peer group and may have lost or failed to acquire the capacity to pursue recreational or social interests. (3-19-07)~~

~~**d.** Family: Is unable to carry out usual roles and functions in a family, such as spouse, parent, or child, or faces gross familial disruption or imminent exclusion from the family. (3-19-07)~~

~~**e.** Basic living skills: Requires help in basic living skills, such as hygiene, food preparation, or other activities of daily living, or is gravely disabled and unable to meet daily living requirements. (3-19-07)~~

~~**f.** Housing: Has lost or is at risk of losing his current residence. (3-19-07)~~

~~g. Community: Exhibits inappropriate social behavior or otherwise causes a public disturbance due to poor judgment, bizarre, or intrusive behavior, which may result in intervention by law enforcement, the judicial system, or both. (3-19-07)~~

~~h. Health: Requires substantial assistance in maintaining physical health or in adhering to medically rigid prescribed treatment regimens. (3-19-07)~~

**726. SERVICE COORDINATION: ELIGIBILITY: INDIVIDUALS UP TO THE AGE OF TWENTY-ONE.**

To be eligible for children's service coordination, a participant must meet the following requirements in Subsections 726.01 through 726.05~~3~~. Eligibility is determined initially and annually by the Department based on information provided by the service coordination agency or the family. All information necessary to make the eligibility determination must be received by the Department twenty (20) business days prior to the anticipated start date of any service coordination services. The eligibility determination must be made by the Department prior to the initiation of initial and ongoing plan development and services. ~~(7-1-13)~~(9-1-13)T

**01. Age.** From the age of thirty-seven (37) months through the month in which their twenty-first birthday occurs. (5-8-09)

**02. Diagnosis.** Must ~~be~~ have special health care needs requiring medical and multidisciplinary rehabilitation services identified by a physician or other practitioner of the healing arts ~~as having one (1) of the diagnoses found in Subsections 726.03 through 726.04 of this rule~~ to prevent or minimize a disability. ~~(7-1-13)~~(9-1-13)T

~~03. Special Health Care Needs. Have special health care needs requiring medical and multidisciplinary habilitation or rehabilitation services to prevent or minimize a disability. (3-19-07)~~

~~04. Serious Emotional Disturbance (SED). Have a serious emotional disturbance (SED) with an expected duration of at least one (1) year. The following definition of the SED target populations is based on the definition of SED found in the Children's Mental Health Services Act, Section 16-2403, Idaho Code. (3-19-07)~~

~~a. Presence of an emotional or behavioral disorder, according to the DSM-IV-TR or subsequent revisions to the DSM, which results in a serious disability; and (3-19-07)~~

~~b. Requires sustained treatment interventions; and (3-19-07)~~

~~c. Causes the child's functioning to be impaired in thought, perception, affect, or behavior. (3-19-07)~~

~~d. The disorder is considered to be a serious disability if it causes substantial impairment in functioning. Functional impairment must be assessed using the Child and Adolescent Functional Assessment Scale/ Preschool and Early Childhood Functional Assessment Scale (CAFAS/PECFAS). Substantial impairment requires that the child scores in the "moderate" impairment range in at least two (2) of the subscales. One (1) of the two (2) must be from the following: (5-8-09)~~

~~i. Self-Harmful Behavior; (3-19-07)~~

~~ii. Moods/Emotions; or (3-19-07)~~

~~iii. Thinking. (3-19-07)~~

~~e. A substance abuse disorder, or conduct disorder, or developmental disorder, alone, does not constitute a serious emotional disturbance, although one (1) or more of these conditions may co-exist with serious emotional disturbance. (3-19-07)~~

~~05<sup>3</sup>. Need Assistance. Have one (1) or more of the following problems in Subsection 726.05.a. through 726.06.e. of this rule associated with their diagnosis~~ Medicaid-reimbursed service coordination services are not

available for participants whose needs can be met by other service coordination or case management resources, including paid and non-paid sources. The participant must have needs for service coordination for one (1) or more of the following problems: ~~(7-1-13)~~(9-1-13)T

- a. The condition has resulted in a level of functioning below normal age level in one (1) or more life areas such as school, child care setting, family, or community; (5-8-09)
- b. The child is at risk of placement in a more restrictive environment or the child is returning from an out of home placement as a result of the condition; (5-8-09)
- c. There is danger to the health or safety of the child or the parent is unable to meet the needs of the child; (5-8-09)
- d. Further complications may occur as a result of the condition without provision of service coordination services; or (3-19-07)
- e. The child requires multiple service providers and treatments. (3-19-07)

**727. SERVICE COORDINATION: COVERAGE AND LIMITATIONS.**

Service coordination consists of services provided to assist individuals in gaining access to needed ~~medical, psychiatric, social, early intervention, educational, and other~~ services. Service coordination includes the following activities described in Subsections 727.01 through 727.10 of this rule. ~~(5-8-09)~~(9-1-13)T

**01. Plan Assessment and Periodic Reassessment.** Activities that are required to determine the participant's needs by development of a plan assessment and periodic reassessment as described in Section 730 of these rules. These activities include: (5-8-09)

- a. Taking a participant's history; (5-8-09)
- b. Identifying the participant's needs and completing related documentation; and (5-8-09)
- c. Gathering information from other sources such as family members, medical providers, social workers, and educators, to form a complete assessment of the participant. (5-8-09)

**02. Development of the Plan.** Development and revision of a specific plan, described in Section 731 of these rules that includes information collected through the assessment and specifies goals and actions ~~to address medical, psychiatric, social, early intervention, educational, and other services~~ needed by the participant. The plan must be updated at least annually and as needed to meet the needs of the participant. ~~(5-8-09)~~(9-1-13)T

**03. Referral and Related Activities.** Activities that help link the participant with ~~medical, psychiatric, social, early intervention, educational providers or other programs and~~ services ~~providers~~ that are capable of providing needed services to address identified needs and achieve goals specified in the service coordination plan. ~~(5-8-09)~~(9-1-13)T

**04. Monitoring and Follow-Up Activities.** Monitoring and follow-up contacts that are necessary to ensure the plan is implemented and adequately addresses the participant's needs. These activities may be with the participant, family members, providers, or other entities or individuals and conducted as frequently as necessary. These activities must include at least one face-to-face contact with the participant at least every ninety (90) days, to determine whether the following conditions are met: (5-8-09)

- a. Services are being provided according to the participant's plan; (5-8-09)
- b. Services in the plan are adequate; and (5-8-09)
- c. Whether there are changes in the needs or status of the participant, and if so, making necessary adjustments in the plan and service arrangements with providers. (5-8-09)

**05. Crisis Assistance.** Crisis assistance is service coordination used to assist a participant to access community resources in order to resolve a crisis. Crisis service coordination does not include crisis counseling, transportation to emergency service providers, or direct skill-building services. The need for all crisis assistance hours must meet the definition of crisis in Section 721 of these rules. (5-8-09)

**a.** Crisis Assistance for Children's Service Coordination. Crisis hours are not available until four and a half (4.5) hours of service coordination have already been provided in the month. Crisis hours for children's service coordination must be authorized by the Department. (5-8-09)

**b.** Crisis Assistance for Adults With a Developmental Disability. Crisis hours are not available until four and a half (4.5) hours of service coordination have already been provided in the month. Crisis assistance for adults with a developmental disability must be authorized by the Department and is based on community crisis supports as found in Section 507 through 515 of these rules. (5-8-09)

~~**c.** *Crisis Assistance for Adults with Serious and Persistent Mental Illness. Initial crisis assistance is limited to a total of three (3) hours per calendar month. Additional crisis service coordination services must be authorized by the Department and may be requested when the participant is at imminent risk of reinstitutionalization within fourteen (14) days following discharge from a hospital, institution, jail or nursing home, or meets the criteria listed in Subsection 727.05.c.i. through 727.05.c.iii. of this rule.* (5-8-09)~~

~~**i.** *The participant is experiencing symptoms of psychiatric decompensation that interferes or prohibits the participant from gaining or coordinating necessary services.* (5-8-09)~~

~~**ii.** *The participant has already received the maximum number of monthly hours of ongoing service coordination and crisis service coordination hours; and* (5-8-09)~~

~~**iii.** *No other crisis assistance services are available to the participant under other Medicaid mental health option services, including Psychosocial Rehabilitation Services (PSR).* (5-8-09)~~

~~**d.c.** Authorization for crisis assistance hours may be requested retroactively as a result of a crisis, defined in Section 721 of these rules, when a participant's service coordination benefits have been exhausted and no other means of support is available to the participant. In retroactive authorizations, the service coordinator must submit a request for crisis services to the Department within seventy-two (72) hours of providing the service. (5-8-09)~~

**06. Contacts for Assistance.** Service coordination may include contacts with non-eligible individuals only when the contact is directly related to identifying the needs and supports to help the participant access services. (5-8-09)

**07. Exclusions.** Service coordination does not include activities that are: (5-8-09)

**a.** An integral component of another covered Medicaid service; (5-8-09)

**b.** Integral to the administration of foster care programs; (5-8-09)

**c.** Integral to the administration of another non-medical program for which a participant may be eligible. This exclusion does not apply to case management provided as part of the individualized education program or individualized family service plan required by the Individuals with Disabilities Education Act. (5-8-09)

**08. Limitations on the Provision of Direct Services.** Providers of service coordination services may only provide both service coordination and direct services to the same Medicaid participant when the participant is receiving ~~either~~ children's service coordination ~~or service coordination for adults with mental illness~~. The service coordination provider must document that the participant has made a free choice of service coordinators and direct service providers. ~~(5-8-09)~~(9-1-13)T

**09. Limitations on Service Coordination.** Service coordination is limited to ~~the following:~~ (5-8-09)

~~a. Service Coordination for Persons with Mental Illness. Up to five (5) hours per month of ongoing service coordination for participants with mental illness. (5-8-09)~~

~~b. Service Coordination for Children. Up to four and a half (4.5) hours per month for participants who meet the eligibility qualifications for Children's Service Coordination. (5-8-09)~~

~~c. Service Coordination for Adults with a Developmental Disability. Up to four and a half (4.5) hours per month for participants with developmental disabilities. (5-8-09)(9-1-13)T~~

**10. Limitations on Service Coordination Plan Assessment and Plan Development.** Reimbursement for the annual assessment and plan development cannot exceed six (6) hours ~~annually for children, adult participants with mental illness, or adult participants diagnosed with developmental disabilities~~ per year. (3-29-12)(9-1-13)T

## 728. SERVICE COORDINATION: PROCEDURAL REQUIREMENTS.

**01. Prior Authorization for Service Coordination Services.** ~~All service coordination s~~Services must be prior authorized by the Department, ~~except the following:~~ according to the direction provided in the Medicaid Provider Handbook available at [www.idmedicaid.com](http://www.idmedicaid.com). (5-8-09)(9-1-13)T

~~a. Adult mental health service coordination services: service coordination plan development and five (5) hours of ongoing service coordination per month; and the first three (3) hours of crisis service coordination per month. For adults with mental illness, crisis service coordination over three (3) hours per month must be prior authorized. (5-8-09)~~

~~b. Children's service coordination services: four and a half (4.5) hours of ongoing service coordination per month. (5-8-09)~~

### 02. Service Coordination Plan Development. (5-8-09)

a. A written plan, described in Section 731 of these rules, must be developed and implemented within sixty (60) days after the participant chooses a service coordinator ~~except in the case of adults with serious and persistent mental illness; in which case the time limit is thirty (30) days.~~ (5-8-09)(9-1-13)T

b. The plan must be updated at least annually and amended as necessary. (5-8-09)

c. The plan must address the service coordination needs of the participant as identified in the assessment described in Section 730 of these rules. (5-8-09)

d. The plan must be developed prior to ongoing service coordination being provided. (5-8-09)

**03. Documentation of Service Coordination.** Agencies must maintain records that contain documentation describing the services provided, review of the continued need for service coordination, and progress toward each service coordination goal. Documentation must be completed as required in Section 56-209(h), Idaho Code. All active records must be immediately available. Documentation must include all of the following: (3-19-07)

a. The name of the eligible participant. (5-8-09)

b. The name of the provider agency and the person providing the services. (5-8-09)

c. The date, time, duration, and place the service was provided. (5-8-09)

d. The nature, content, units of the service coordination received and whether goals specified in the plan have been achieved. (5-8-09)

e. Whether the participant declined any services in the plan. (5-8-09)

f. The need for and occurrences of coordination with any non-Medicaid case managers. (5-8-09)

- g. The timeline for obtaining needed services. (5-8-09)
- h. The timeline for re-evaluation of the plan. (5-8-09)
- i. A copy of the assessment or prior authorization from the Department that documents eligibility for service coordination services, and a dated and signed plan. (5-8-09)
- j. Agency records must contain documentation describing details of the service provided signed by the person who delivered the service. (5-8-09)
- k. Documented review of participant's continued need for service coordination and progress toward each service coordination goal. A review must be completed at least every one hundred eighty (180) days after the plan development or update. Progress reviews must include the date of the review, and the signature of the service coordinator completing the review. (5-8-09)
- l. Documentation of the participant's, family's, or legal guardian's satisfaction with service. (5-8-09)
- m. A copy of the informed consent form signed by the participant, parent, or legal guardian which documents that the participant has been informed of the purposes of service coordination, his rights to refuse service coordination, and his right to choose his service coordinator and other service providers. (5-8-09)
- n. A plan that is signed by the participant, parent, or legal guardian, and the service coordinator. *Mental health service coordination plans must also be signed by a physician or other practitioner of the healing arts.* The plan must reflect person-centered planning principles and document the participant's inclusion in the development of the plan. The service coordinator must also document that a copy of the plan was given to the participant or his legal representative. The plan must be updated and authorized when required, but at least annually. Children's service coordination plans cannot be effective before the date that the child's parent or legal guardian has signed the plan. (5-8-09)(9-1-13)T

~~04. Documentation of Crisis Assistance for Adults With Serious and Persistent Mental Illness. Documentation to support authorization of crisis assistance beyond the monthly limitation must be submitted to the Department before such authorization may be granted. The crisis situation and the crisis service coordination services must be documented in the progress notes of the participant's medical record. Documentation to support delivery of crisis assistance must also be maintained in the participant's agency record and must include: (5-8-09)~~

~~a. A description of the crisis, including identification of unanticipated events that precipitate the need for crisis service coordination services; (5-8-09)~~

~~b. A brief review of service coordination and other services or supports available to, or already provided to, the participant to resolve the crisis; (5-8-09)~~

~~c. A crisis resolution plan; and (3-19-07)~~

~~d. Outcomes of crisis assistance service provision. (3-19-07)~~

**054. Documentation Completed by a Paraprofessional.** Each entry completed by a paraprofessional must be reviewed by the participant's service coordinator and include the date of review and the service coordinator's signature on the documentation. (5-8-09)

**065. Participant Freedom of Choice.** A participant must have freedom of choice when selecting from the service coordinators available to him. The service coordinator cannot restrict the participant's choice of other health care providers. (5-8-09)

**076. Service Coordinator Contact and Availability.** The frequency of contact, mode of contact, and person or entity to be contacted must be identified in the plan and must meet the needs of the participant. The contacts must verify the participant's well being and whether services are being provided according to the written plan. At

least every ninety (90) days, ~~the~~ service coordinators must have ~~a~~ face-to-face contact with ~~the~~ each participant ~~except as described in Subsection 728.07.a. of this rule.~~ (5-8-09)(9-1-13)T

~~a. Mental health service coordinators must have face-to-face contact every month with each participant.~~ (5-8-09)

**b.a.** When it is necessary for the children's service coordinator to conduct a face-to-face contact with a child participant without the parent or legal guardian present, the service coordinator must notify the parent or legal guardian prior to the face-to-face contact with the participant. Notification must be documented in the participant's file. (5-8-09)

**e.b.** Service coordinators do not have to be available on a twenty-four (24) hour basis, but must include an individualized objective on the plan describing what the participant, families, and providers should do in an emergency situation. The individualized objective must include how the service coordinator will coordinate needed services after an emergency situation. (5-8-09)

**0&7.** **Service Coordinator Responsibility Related to Conflict of Interest.** Service coordinators have a primary responsibility to the participant whom they serve, to respect and promote the right of the participant to self-determination, and preserve the participant's freedom to choose services and providers. In order to assure that participant rights are being addressed, service coordinators must: (5-8-09)

**a.** Be alert to and avoid conflicts of interest that interfere with the exercise of professional discretion and impartial judgment. (5-8-09)

**b.** Inform the participant parent, or legal guardian when a real or potential conflict of interest arises and take reasonable steps to resolve the issue in a manner that makes the participant's interests primary and protects the participant's interests to the greatest extent possible. (5-8-09)

**0&8.** **Agency Responsibility Related to Conflict of Interest.** To assure that participants are protected from restrictions to their self-determination rights because of conflict of interest, the agency must guard against conflict of interest, and inform all participants and guardians of the risk. Each agency must have a document in each participant's file that contains the following information: (5-8-09)

**a.** The definition of conflict of interest as defined in Section 721 of these rules; (5-8-09)

**b.** A signed statement by the agency representative verifying that the concept of conflict of interest was reviewed and explained to the participant parent, or legal guardian; and (5-8-09)

**c.** The participant's, parent's, or legal guardian's signature on the document. (5-8-09)

**729. SERVICE COORDINATION: PROVIDER QUALIFICATIONS.** Service coordination services must be provided by an agency as defined in Section 721 of these rules. (5-8-09)

**01. Provider Agreements.** Service coordinators must be employees or contractors of an agency that has a valid provider agreement with the Department. (3-19-07)

**02. Supervision.** The agency must provide supervision to all service coordinators and paraprofessionals. The agency must clearly document: (5-8-09)

**a.** Each supervisor's ability to address concerns about the services provided by employees and contractors under their supervision, and (5-8-09)

**b.** That a paraprofessional is not a supervisor. (5-8-09)

**03. Agency Supervisor Required Education and Experience.** (5-8-09)

**a.** Master's Degree in a human services field from a nationally accredited university or college, and

have twelve (12) months supervised work experience with the population being served; or (5-8-09)

**b.** Bachelor's degree in a human services field from a nationally accredited university or college, and have twenty-four (24) months supervised work experience with the population being served. (5-8-09)

**c.** Be a licensed professional nurse (RN), and have twenty-four (24) months supervised work experience with the population being served. (5-8-09)

~~**d.** For mental health service coordination, the supervisor must have obtained the required supervised work experience in a mental health treatment setting with the serious and persistent mentally ill population. (5-8-09)~~

**04. Service Coordinator Education and Experience. (5-8-09)**

**a.** Minimum of a Bachelor's degree in human services field from a nationally accredited university or college and have twelve (12) months supervised work experience with the population being served; or (5-8-09)

**b.** Be a licensed professional nurse (RN); and have twelve (12) months work experience with the population being served. (5-8-09)

**c.** When an individual meets the education or licensing requirements in Subsections 729.04.a. or 729.04.b. of this rule, but does not have the required supervised work experience, the individual must be supervised by a qualified service coordinator while gaining the required work experience. (5-8-09)

**05. Paraprofessional Education and Experience.** Under the supervision of a qualified service coordinator, a paraprofessional may be used to assist in the implementation of the plan. Paraprofessionals must have the following qualifications: (5-8-09)

**a.** Be at least eighteen (18) years of age and have a minimum of a high school diploma or equivalency; (5-8-09)

**b.** Be able to read and write at an appropriate level to process the required paperwork and forms involved in the provision of the service; and (5-8-09)

**c.** Have twelve (12) months supervised work experience with the population being served. (5-8-09)

**06. Limitations on Services Delivered by Paraprofessionals. (~~5-8-09~~)**

~~**a.** Paraprofessionals must not conduct assessments, evaluations, person-centered planning meetings, ninety (90) day face-to-face contacts described in Section 728.07~~6~~ of these rules, one hundred eighty (180) day progress reviews, plan development, or plan changes. Paraprofessionals cannot be identified as the service coordinator on the plan and they cannot supervise service coordinators or other paraprofessionals. (~~5-8-09~~)(9-1-13)T~~

~~**b.** Mental Health Service Coordination does not allow for service provision by paraprofessionals. (~~5-8-09~~)~~

**07. Criminal History Check Requirements.** Service coordination agencies must verify that each service coordinator and paraprofessional they employ or with whom they contract has complied with IDAPA 16.05.06, "Criminal History and Background Checks." (5-8-09)

**08. Health, Safety and Fraud Reporting.** Service coordinators are required to report any concerns about health and safety to the appropriate governing agency and to the Department. Service coordinators must also report fraud, including billing of services that were not provided, to the Department unit responsible for authorizing the service; and to the Surveillance and Utilization Review Unit (SUR) within the Department or its toll-free Medicaid fraud hotline. (3-19-07)

**09. Individual Service Coordinator Case Loads.** The total caseload of a service coordinator must assure quality service delivery and participant satisfaction. (5-8-09)

**730. SERVICE COORDINATION: PLAN DEVELOPMENT -- ASSESSMENT.**

**01. Assessment Process.** The service coordination assessment must be completed by a service coordinator as part of the person-centered planning process. The focus of the assessment is to identify the participant's need for assistance in gaining and coordinating access to care and services. The participant must be included in the assessment process. The parent or legal guardian, when appropriate, and pertinent service providers as identified by the participant must also be included during the assessment process. The assessment component is used to determine the prioritized needs and services of the participant and must be documented in the plan. When the participant is a child, the assessment must include identification of the family's needs to ensure the child's needs are met. (5-8-09)

**02. Components of an Assessment.** The components in the assessment of a participant's service coordination needs must document the following information; (5-8-09)

- a. Basic needs; (5-8-09)
- b. Medical needs; (5-8-09)
- c. Health and safety needs; (5-8-09)
- d. Therapy needs; (5-8-09)
- e. Educational needs; (5-8-09)
- f. Social and integration needs; (5-8-09)
- g. Personal needs; (5-8-09)
- h. Family needs and supports; (5-8-09)
- i. Long range planning; (5-8-09)
- j. Legal needs; and (5-8-09)(9-1-13)T
- k. Financial needs; ~~and~~. (5-8-09)(9-1-13)T

~~l. For adults with mental illness the comprehensive diagnostic assessment used to establish service coordination eligibility described in Section 725 of these rules (5-8-09)~~

~~03. Assessment for Mental Health Service Coordination. The assessment for mental health service coordination must not duplicate the comprehensive diagnostic assessment. (5-8-09)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**736. SERVICE COORDINATION: PROVIDER REIMBURSEMENT.**

**01. Duplication.** Participants are only eligible for one (1) type of service coordination. If they qualify for more than one (1) type, the participant must choose one (1). Service coordination payment must not duplicate payment made to public or private sector entities under other program authorities for this same purpose. (3-19-07)

**02. Payment for Service Coordination.** Subject to the service limitations in Subsection 736.06 of this rule, only the following services are reimbursable: (5-8-09)

- a. Service coordination plan development defined in Section 721 of these rules. (5-8-09)
- b. Face-to-face contact required in Subsection 728.076 of these rules. ~~(5-8-09)~~(9-1-13)T
- c. Two-way communication between the service coordinator and the participant, participant's service providers, family members, primary care givers, legal guardian, or other interested persons. (5-8-09)
- d. Face-to-face contact between the service coordinator and the participant's family members, legal representative, primary caregivers, providers, or other interested persons. (3-19-07)
- e. Referral and related activities associated with obtaining needed services as identified in the service coordination plan. (5-8-09)

**03. Service Coordination During Institutionalization.** Service coordination is reimbursable on the day a participant is admitted to a medical institution if the service is provided prior to admission. Service coordination is reimbursable on the day of discharge from a medical institution if the service is provided after discharge. (5-8-09)

- a. Service coordination for reintegration into the community, can only be provided by and reimbursed to a service coordination agency when the following applies: (5-8-09)
  - i. During the last fourteen (14) days of an inpatient stay which is less than one hundred eighty (180) days in duration; or (5-8-09)
  - ii. During the last sixty (60) days of an inpatient stay of one hundred eighty (180) days or more. (5-8-09)
- b. Service coordination providers may not file claims for reimbursement until the participant is discharged and using community services; (5-8-09)
- c. Service coordination must not duplicate activities provided as part of admission or discharge planning activities of the medical institution. (5-8-09)

**04. Incarceration.** Service coordination is not reimbursable when the participant is incarcerated. (3-19-07)

**05. Services Delivered Prior to Assessment.** Payment for on-going service coordination will not be made prior to the completion of the service coordination plan. (5-8-09)

**06. Payment Limitations.** Reimbursement is not allowed for missed appointments, attempted contacts, travel to provide the service, leaving messages, scheduling appointments with the Medicaid service coordinator, transporting participants, or documenting services. (5-8-09)

- a. Service coordination providers are paid in unit increments of fifteen (15) minutes each. A service coordinator can only be reimbursed for the amount of time worked and must not bill for more than four (4) billing units per hour. The following table is an example of minutes to billing units. (5-8-09)

Services Provided Are More Than Minutes	Services Provided Are Less Than Minutes	Billing Units
8	23	1
22	38	2
37	53	3
52	68	4
67	83	5

<b>Services Provided Are More Than Minutes</b>	<b>Services Provided Are Less Than Minutes</b>	<b>Billing Units</b>
82	98	6
97	113	7

(5-8-09)

**b.** Direct delivery of medical, educational, psychiatric, social, early intervention, or other service to which a participant has been referred is not reimbursable as service coordination. (5-8-09)

**c.** Activities that are an integral component of another covered Medicaid service are not reimbursable as service coordination. (5-8-09)

**d.** Activities that are integral to the administration of foster care programs are not reimbursable as service coordination. (5-8-09)

**e.** Activities that are integral to the administration of another non-medical program are not reimbursable as service coordination. This exclusion does not apply to case management provided as part of the individualized education program or individualized family service plan required by the Individuals with Disabilities Education Act. (5-8-09)

**07. Healthy Connections.** A participant enrolled in Healthy Connection must receive a referral for assessment and provision of services from his Healthy Connections provider. To be reimbursed for service coordination, the Healthy Connections referral must cover the dates of service delivery. (3-21-12)

**08. Group Service Coordination.** Payment is not allowed for service coordination provided to a group of participants. (3-19-07)

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

**16.05.06 - CRIMINAL HISTORY AND BACKGROUND CHECKS**

**DOCKET NO. 16-0506-1301 (FEE RULE)**

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

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2013.

**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, 56-1007, 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520 and 39-5604, Idaho Code, and 2013 Legislation in House Bill 125.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2013.

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 rule changes are needed to implement HB 125 (2013) adopted by the 2013 Legislature that requires the Department to conduct a criminal history check (CHC) on a new class of individuals required or ordered by the courts. An individual will be required to undergo the CHC prior to being appointed as a guardian or conservator for a vulnerable adult. HB 125 also requires that a CHC be conducted at the proposed guardian's expense, for any individual who will reside in the incapacitated person's proposed residence.

The changes to these rules added statutory references and the class of individuals requiring the Department's criminal history and background checks.

**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, statutes taking effect July 1, 2013, require that guardians and conservators appointed by the courts must have a Department criminal history and background check. Statutes require an applicant for a criminal history check to cover the cost of the check.

**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 \$65 based on the actual cost. The 2013 Legislature added a new class of individuals that are required to have a criminal history and background check prior to being appointed by the court as a guardian or conservator, or any individual who will reside in the incapacitated person's residence.

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

There are no additional costs to be paid for by the Department or the state general fund due to this rulemaking. It is anticipated that 700 individuals will request these criminal history and background checks at \$65 per check for a total of \$45,500 in total receipts.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking 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 August 28, 2013.

DATED this 9th day of July, 2013.

Tamara Prisock  
DHW - Administrative Rules Unit  
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](mailto:dhwrules@dhw.idaho.gov)

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**THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE AND PROPOSED TEXT  
FOR FEE DOCKET NO. 16-0506-1301**

**000. LEGAL AUTHORITY.**

The Idaho Legislature has authorized the Department of Health and Welfare to promulgate rules to conduct criminal history and background checks under Sections 56-202(b), 56-203(2), 56-204A, 56-1004A, 56-1007, 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520, and 39-5604, 66-404(7), 15-5-308(4), 15-5-311(5), and 15-5-316(5), Idaho Code. ~~(3-26-08)(7-1-13)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. INDIVIDUALS SUBJECT TO A CRIMINAL HISTORY AND BACKGROUND CHECK.**

Individuals subject to a Department criminal history and background check are those persons or classes of individuals who are required by statute, or Department rules to complete a criminal history and background check. (3-4-11)

**01. Adoptive Parent Applicants.** Individuals who must comply with IDAPA 16.06.01, "Child and Family Services," and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)

**02. Alcohol or Substance Use Disorders Treatment Facilities and Programs.** Individuals who must comply with IDAPA 16.07.20, "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs," and IDAPA 16.03.09, "Medicaid Basic Plan Benefits." (3-4-11)

**03. Certified Family Homes.** Individuals who must comply with Section 39-3520, Idaho Code, IDAPA 16.03.19, "Rules Governing Certified Family Homes," and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)

**04. Children's Residential Care Facilities.** Individuals who must comply with Section 39-1210, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)

**05. Children's Therapeutic Outdoor Programs.** Individuals who must comply with Section 39-1208, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)

**06. Contracted Non-Emergency Medical Transportation Providers.** Individuals who must comply with IDAPA 16.03.09, "Medicaid Basic Plan Benefits." (3-4-11)

**07. Court Appointed Guardians and Conservators.** Individuals who must comply with the requirements of Title 15, Chapter 5, Idaho Code, and Title 66, Chapter 4, Idaho Code. Court required guardian and conservator criminal history and background checks are not provided Department clearances described in Section 180.01 of these rules. (7-1-13)T

**078. Designated Examiners and Designated Dispositioners.** Individuals who must comply with IDAPA 16.07.39, "Appointment of Designated Examiners and Designated Dispositioners." (3-4-11)

**089. Developmental Disabilities Agencies.** Individuals who must comply with IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)," and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)

**0910. Emergency Medical Services (EMS).** Individuals who must comply with IDAPA 16.02.03, "Rules Governing Emergency Medical Services," and IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements." (7-1-12)

**101. Home and Community-Based Services (HCBS).** Individuals who must comply with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," and IDAPA 16.04.17, "Rules Governing Residential Habilitation Agencies." (7-1-12)

**112. Home Health Agencies.** Individuals who must comply with IDAPA 16.03.07, "Home Health Agencies." (3-4-11)

**123. Idaho Child Care Program (ICCP).** Individuals who must comply with IDAPA 16.06.12, "Rules Governing the Idaho Child Care Program." (3-4-11)

**134. Intermediate Care Facilities for Persons with Intellectual Disabilities (ICF/ID).** Individuals who must comply with IDAPA 16.03.11, "Intermediate Care Facilities for Persons with Intellectual Disabilities (ICF/ID)." (3-4-11)

**145. Licensed Foster Care.** Individuals who must comply with Section 39-1211, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)

**156. Licensed Day Care.** Individuals who must comply with Sections 39-1105, 39-1113, and 39-1114, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)

**167. Mental Health Clinics.** Individuals who must comply with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," and IDAPA 16.03.09, "Medicaid Basic Plan Benefits." (3-4-11)

**178. Nonhospital, Medically-Monitored Detoxification/Mental Health Diversion Units.** Individuals who must comply with IDAPA 16.07.50, "Minimum Standards for Nonhospital, Medically-Monitored Detoxification/Mental Health Diversion Units." (3-4-11)

**189. Personal Assistance Agencies.** Individuals who must comply with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)

**1920. Personal Care Service Providers.** Individuals who must comply with Section 39-5604, Idaho Code, and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)

**201. Psychosocial Rehabilitation Providers.** Individuals who must comply with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)

**242. Residential Care or Assisted Living Facilities in Idaho.** Individuals who must comply with IDAPA 16.03.22, "Residential Care or Assisted Living Facilities in Idaho." (3-4-11)

**243. Semi-Independent Group Residential Care Facilities for the Developmentally Disabled or Mentally Ill.** Individuals who must comply with IDAPA 16.03.15, "Rules and Minimum Standards for Semi-Independent Group Residential Care Facilities for the Developmentally Disabled or Mentally Ill." (3-4-11)

**244. Service Coordinators and Paraprofessional Providers.** Individuals who must comply with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)

**245. Skilled Nursing and Intermediate Care Facilities.** Individuals who must comply with IDAPA 16.03.02, "Rules and Minimum Standards for Skilled Nursing and Intermediate Care Facilities." (3-4-11)

**246. Support Brokers and Community Support Workers.** Individuals who must comply with IDAPA 16.03.13, "Consumer-Directed Services." (3-4-11)

**(BREAK IN CONTINUITY OF SECTIONS)**

**180. CRIMINAL HISTORY AND BACKGROUND CHECK RESULTS.**

**01. Department Clearance.** The Department will issue a clearance or denial once the criminal history and background check is completed. The results may be accessed by the individual on the Department's website. The employer may access the information that is provided by the applicant and information obtained from the state, county, or through registries. ~~(3-26-08)~~(7-1-13)T

**02. Findings for Court Required Criminal History and Background Checks.** As required in Section 56-1004A(2)(b), Idaho Code, the Department will provide findings of a court ordered criminal history and background check to individuals appointed by the court according to Title 15, Chapter 5, or Title 66, Chapter 4, Idaho Code. (7-1-13)T

## **IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

### **24.13.01 - RULES GOVERNING THE PHYSICAL THERAPY LICENSE BOARD**

#### **DOCKET NO. 24-1301-1301**

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

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2206, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2013.

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

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

The Physical Therapy Licensure Board is revising the supervision rule to increase the number of patient visits or the amount of time before the supervisor must re-evaluate the patient and the plan of care being provided by a Physical Therapy Assistant. This added flexibility in the supervision of assistants will especially benefit those patients and physical therapists practicing in rural areas.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the Board desires to revise its supervision rule to provide more flexibility when supervising assistants. The Board has worked with the state association on this rule.

**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 Cherie Simpson at 208 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 28, 2013.

DATED this 24th day of June, 2013.

Tana Cory, Bureau Chief  
Bureau of Occupational Licenses  
700 W State St.  
P O Box 83720  
Boise, ID 83720-0063  
208 334-3233 phone 208 334-3945 fax

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**THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 24-1301-1301**

**016. SUPERVISION (RULE 16).**

A physical therapist shall supervise and be responsible for patient care given by physical therapist assistants, supportive personnel, physical therapy students, and physical therapist assistant students. (3-19-07)

**01. Procedures and Interventions Performed Exclusively by Physical Therapist.** The following procedures and interventions shall be performed exclusively by a physical therapist: (3-19-07)

**a.** Interpretation of a referral for physical therapy if a referral has been received. (3-19-07)

**b.** Performance of the initial patient evaluation and problem identification including a diagnosis for physical therapy and a prognosis for physical therapy. (3-19-07)

**c.** Development or modification of a treatment plan of care which is based on the initial evaluation and which includes long-term and short-term physical therapy treatment goals. (3-19-07)

**d.** Assessment of the competence of physical therapist assistants, physical therapy students, physical therapist assistant students, and supportive personnel to perform assigned procedures, interventions and routine tasks. (3-19-07)

**e.** Selection and delegation of appropriate portions of treatment procedures, interventions and routine physical therapy tasks to the physical therapist assistants, physical therapy students, physical therapist assistant students, and supportive personnel. (3-19-07)

**f.** Performance of a re-evaluation when any change in a patient's condition occurs that is not consistent with the physical therapy treatment plan of care, patient's anticipated progress, and physical therapy treatment goals. (3-19-07)

**g.** Performance and documentation of a discharge evaluation and summary of the physical therapy treatment plan. (3-19-07)

**02. Supervision of Physical Therapist Assistants.** A physical therapist assistant shall be supervised by a physical therapist by no less standard than general supervision. (3-19-07)

**a.** A physical therapist assistant shall not change a procedure or intervention unless such change of procedure or intervention has been included within the treatment plan of care as set forth by a physical therapist. (3-19-07)

**b.** A physical therapist assistant may not continue to provide treatment as specified under a treatment plan of care if a patient's condition changes such that further treatment necessitates a change in the established treatment plan of care unless the physical therapist assistant has consulted with the supervising physical therapist prior to the patient's next appointment for physical therapy, and a re-evaluation is completed by the supervising physical therapist. (3-19-07)

**c.** ~~A patient re-evaluation must be performed and documented by the supervising physical therapist~~ The supervising physical therapist shall provide direct personal contact with the patient and assess the plan of care on or before every five (5) visits or once a week if treatment is performed more than once per day but no less often than once every sixty (60) days. The supervising therapist's assessment shall be documented in the patient record. (3-19-07)( )

**d.** A physical therapist assistant may refuse to perform any procedure, intervention, or task delegated by a physical therapist when such procedure, intervention, or task is beyond the physical therapist assistant's skill level or scope of practice standards. (3-19-07)

**e.** A physical therapist shall not be required to co-sign any treatment related documents prepared by a physical therapist assistant, unless required to do so in accordance with law, or by a third-party. (3-19-07)

**03. Supervision of Supportive Personnel.** Any routine physical therapy tasks performed by

supportive personnel shall require direct personal supervision. (3-19-07)

**04. Supervision of Physical Therapy and Physical Therapist Assistant Students.** Supervision of physical therapy students and physical therapist assistant students shall require direct supervision. (3-19-07)

**a.** A physical therapy student shall only be supervised by the direct supervision of a physical therapist. (3-19-07)

**b.** A physical therapy student shall be required to sign all treatment notes with the designation “SPT” after their name, and all such signatures shall require the co-signature of the supervising physical therapist. (3-19-07)

**c.** A physical therapist assistant student shall be required to sign all treatment notes with the designation “SPTA” after their name, and all such signatures shall require the co-signature of the supervising physical therapist or supervising physical therapist assistant. (3-19-07)

**05. Supervision Ratios.** (3-19-07)

**a.** At no time during the treatment of a patient or patients for physical therapy shall the number of physical therapist assistants providing such treatment be more than twice in number of such supervising physical therapist(s) providing physical therapy treatment at any physical therapy practice or site. (3-19-07)

**b.** At no time during the treatment of a patient or patients for physical therapy shall the number of supportive personnel performing routine physical therapy tasks be more than twice in number of such supervising physical therapist(s) or supervising physical therapist assistant(s) providing physical therapy treatment at any physical therapy practice or site. (3-19-07)

**c.** At no time during the treatment of a patient or patients for physical therapy shall the number of physical therapy students performing delegated supervised physical therapy tasks be more than twice in number of such supervising physical therapist(s) providing physical therapy treatment at any physical therapy practice or site. (3-19-07)

**d.** At no time during the treatment of a patient or patients for physical therapy shall the number of physical therapist assistant students performing delegated supervised physical therapy tasks be more than twice in number of such supervising physical therapist(s) or supervising physical therapist assistant(s) providing physical therapy treatment at any physical therapy practice or site. (3-19-07)

**e.** At no time during the treatment of a patient or patients for physical therapy shall the number of physical therapist assistants, physical therapy students, physical therapist assistants students, and supportive personnel, or a combination thereof, performing delegated supervised physical therapy or routine physical therapy tasks be more than three (3) times in number of such physical therapist(s) providing physical therapy treatment at any physical therapy practice or site; nor shall the number of physical therapist assistant students or supportive personnel, or a combination thereof, performing delegated and supervised physical therapy tasks or routine physical therapy tasks be more than twice in number of such physical therapist assistant(s) providing physical therapy treatment at any physical therapy practice or site. (3-19-07)

## **IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

### **24.13.01 - RULES GOVERNING THE PHYSICAL THERAPY LICENSE BOARD**

#### **DOCKET NO. 24-1301-1302 (FEE RULE)**

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

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2206, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2013.

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

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

The Physical Therapy Licensure Board operates on dedicated funds from fees paid by its licensees and applicants. This change would decrease the exam administrative fee, application fee, original license fee, and annual renewal fee for licensure in an effort to reduce the Board's dedicated fund balance and convey a benefit to licensees and applicants through lower fees.

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

Rule 200 is being amended to decrease the initial license and annual renewal fee for physical therapists from \$40 to \$25; decrease the initial license and annual renewal fee for physical therapist assistants from \$35 to \$20; decrease the exam administration fee from \$40 to \$20; and decrease the application fee from \$50 to \$25. Rule 200.05 concerning extraordinary expenses is being deleted in its entirety.

**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:

This rulemaking is anticipated to reduce the amount of dedicated fund fees collected by the Physical Therapy Licensure Board by approximately \$27,510.00.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed revisions to the fee rule are simple in nature and confer a benefit to the licensees and applicants. No opposition to this proposed fee reduction is anticipated.

**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 Cherie Simpson at 208 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 28, 2013.

DATED this 24th day of June, 2013.

Tana Cory, Bureau Chief  
Bureau of Occupational Licenses  
700 W State St.  
P O Box 83720  
Boise, ID 83720-0063  
208 334-3233 phone 208 334-3945 fax

**THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR FEE DOCKET NO. 24-1301-1302**

**200. FEES (RULE 200).**

**01. License Fee.** (3-19-07)

**a.** The fee for the initial licensure and the annual renewal of a physical therapist shall be ~~forty~~ **twenty-five** dollars (~~\$40~~**25**). (~~4-9-09~~)(    )

**b.** The fee for the initial licensure and the annual renewal of a physical therapist assistant shall be ~~thirty five~~ **twenty** dollars (~~\$35~~**20**). (~~4-9-09~~)(    )

**02. Examination Fee.** The fee for examination shall be that set by the examination entity approved by the Board and shall include an additional administrative fee of ~~forty~~ **twenty** dollars (~~\$4~~**20**). (~~3-19-07~~)(    )

**03. Reinstatement Fee.** A reinstatement fee shall be twenty-five dollars (\$25) and satisfactory proof of successful completion of the continuing education requirement. (4-9-09)

**04. Application Fee.** The application fee shall be ~~fifty~~ **twenty-five** dollars (~~\$50~~**25**) and shall accompany all applications. Fees shall not be refundable. (~~3-19-07~~)(    )

~~**05. Extraordinary Expenses.** In those situations where the processing of an application requires extraordinary expenses, the Board may charge the applicant reasonable fees to cover all or part of the extraordinary expenses.~~ (~~3-19-07~~)

## **IDAPA 27 - BOARD OF PHARMACY**

### **27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY**

**DOCKET NO. 27-0101-1207**

#### **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 54-1717, Idaho Code.

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

**Wednesday - August 14, 2013 - 8:00 am.**

**Boise Hotel and Conference Center  
3300 S. Vista Ave.  
Boise, Idaho**

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

For those planning to attend the open, public meeting, written and oral comments will be accepted by and/or presented before the Board. For all others not planning to attend the meeting, written comments will be accepted by the Executive Director on or before **August 12, 2013**.

**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:

Draft compounding, secured delivery area, pharmacy security, continuing pharmacy education, and CV dispensing rules, as well as rules that create harmony with Idaho Code. Draft rules are available on the Board's website: <http://bop.idaho.gov/>.

**CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this negotiated rulemaking, contact Mark Johnston, Executive Director, at (208) 334-2356 or at [mark.johnston@bop.idaho.gov](mailto:mark.johnston@bop.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 12, 2013. Written comments may also be submitted in person on the day at the location listed above.

DATED this 3rd day of July, 2013.

Mark Johnston, R.Ph.  
Executive Director  
Board of Pharmacy  
1199 W. Shoreline Ln., Ste. 303

P. O. Box 83720  
Boise, ID 83720-0067  
Telephone: (208) 334-2356  
FAX: (208) 334-3536

## IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

### 31.01.01 - RULES OF PROCEDURE OF THE IDAHO PUBLIC UTILITIES COMMISSION

DOCKET NO. 31-0101-1301

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

**AUTHORITY:** In compliance with Sections 67-5220, Idaho Code, notice is hereby given that the Public Utilities Commission intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 61-601 and 62-615, Idaho Code.

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

**Wednesday, August 21, 2013 at 9:00 a.m. (MDT)**

**PUC Hearing Room  
472 West Washington Street  
Boise, Idaho**

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

**METHOD OF PARTICIPATION:** Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the undersigned either in writing, by email, or by calling the phone number listed below.

The Commission intends to convene an informal public workshop for the purpose of reviewing and discussing the draft rules. During the workshop interested persons will be permitted to ask questions and make comments. Interested persons may also participate by telephone by calling toll-free **(888) 706-6468**. The participant code is: **2253752**. The Commission also invites the submission of written comments as set out below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary and made available on the agency web site.

**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 Commission is reviewing changes to its Rules of Procedure, IDAPA 31.01.01. The reasons for the proposed changes include: improving efficiency and cost-effectiveness by allowing the Commission to update its list of current utilities and railroads subject to the annual regulatory assessments (Rule 18); updating references and citations to other authorities (Rules 19, 43); increasing public involvement by making RSS feeds more user-friendly (Rule 39); recognizing utilities formed as limited liability companies (Rules 111 and 114); and improving the clarity of two rules regarding customer notices (Rules 121 and 125). The Commission encourages those interested in participating in the informal workshop to obtain and review a copy of the draft changes to the Rules of Procedure prior to the public workshop.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the proposed rules, contact Donald L. Howell, II, Deputy Attorney General, PO Box 83720, Boise, Idaho 83720-0074 (208) 334-0312, [don.howell@puc.idaho.gov](mailto:don.howell@puc.idaho.gov). The draft changes are available on the Commission's web site [www.puc.idaho.gov](http://www.puc.idaho.gov) by clicking on "Draft Procedural Rules" under "Hot Items & Updates." Anyone may submit written comments regarding this negotiated rulemaking. All written comments on the draft rules must be directed to the undersigned, and contain the Docket No. 31-0101-1301 and must be delivered on or before August 23, 2013.

DATED this 2nd day of July, 2013.

Jean D. Jewell  
Commission Secretary  
Idaho Public Utilities Commission  
472 W. Washington Street (83702-5918)  
PO Box 83720  
Boise, ID 83720-0074  
E-mail: [secretary@puc.idaho.gov](mailto:secretary@puc.idaho.gov)  
Tele: (208) 334-0338  
FAX: (208) 334-3762

## IDAPA 33 - REAL ESTATE COMMISSION

### 33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION

DOCKET NO. 33-0101-1301

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

**EFFECTIVE DATE:** The effective date of the temporary rule is June 13, 2013.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-2007 and 54-2036(3).

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

**Tuesday, August 27, 2013 at 10:00 a.m. (MDT)**

**Idaho Real Estate Commission  
575 E. Parkcenter Blvd., Suite 180  
Boise ID 83706**

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

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

Expands the scope of courses for which the Commission may grant licensee education credit to include Professionalism and Business Success.

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

The temporary rule confers a benefit to licensees by expanding the topics for which licensee Continuing Education credit may be awarded. This will provide greater opportunity for enhanced professional development and consumer protection.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the Commission has already consulted with industry representatives about the text of the proposed change and they are in agreement with the desirability and need for this rule change.

**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: None.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jeanne Jackson-Heim, (208) 334-3285.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 28, 2013.

DATED this 3rd day of July, 2013.

Jeanne Jackson-Heim  
Executive Director  
Idaho Real Estate Commission  
575 E. Parkcenter Blvd., Suite 180  
Boise ID 83706  
(208) 334-3285; (208) 334-2050 (fax)

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**THE FOLLOWING IS THE TEMPORARY RULE AND TEXT OF THE PROPOSED RULE  
FOR DOCKET NO. 33-0101-1301**

**402. APPROVED TOPICS FOR CONTINUING EDUCATION.**

The primary purpose of continuing education is to help assure that licensees possess the knowledge, skills, and competency necessary to function in the real estate business in a manner that protects and serves the public interest, or that promotes the professionalism and business proficiency of the licensee. The knowledge or skills taught in an elective course must enable licensees to better serve real estate consumers. ~~(5-8-09)~~ **(6-13-13)T**

**01. Topics Approved by the Commission.** Approved topic areas for continuing education, as provided for in Sections 54-2023 and 54-2036, Idaho Code, include the following as they pertain to real estate brokerage practice and actual real estate knowledge: (5-8-09)

- a. Real estate ethics; (3-20-04)
- b. Legislative issues that influence real estate practice; (3-20-04)
- c. Real estate law; contract law; agency; real estate licensing law and administrative rules; (3-20-04)
- d. Fair housing; affirmative marketing; Americans with Disabilities Act; (3-20-04)
- e. Real estate financing, including mortgages and other financing techniques; (3-20-04)
- f. Real estate market measurement and evaluation; (3-20-04)
- g. Land use planning and zoning; land development; construction; energy conservation in building; (3-20-04)
- h. Real estate investment; (3-20-04)
- i. Accounting and taxation as applied to real property; (3-20-04)
- j. Real estate appraising; (3-20-04)
- k. Real estate marketing procedures; (5-8-09)
- l. Real estate inspections; (3-20-04)
- m. Property management; (3-20-04)
- n. Timeshares, condominiums and cooperatives; (3-20-04)

- o.** Real estate environmental issues and hazards, including lead-based paint, underground storage tanks, radon, etc.; (5-8-09)
  - p.** Water rights; (3-20-04)
  - q.** Brokerage office management and supervision; (3-30-07)
  - r.** Use of technology; (5-8-09)
  - s.** Licensee safety; (3-30-07)
  - t.** Negotiation skills; (3-30-07)
  - u.** Business success. (6-13-13)T
- 02. Other Topics.** Upon written request, the Commission may also approve any other topic that directly relates to real estate brokerage practice and that directly contributes to the accomplishment of the primary purpose of continuing education. (5-8-09)
- 03. Topics Not Eligible for Continuing Education Credits.** The following activities shall not be eligible for approval for compliance with the continuing education requirement: (3-20-04)
- a.** Those which are specifically exam preparation in nature; (3-20-04)
  - b.** Real estate topics not directly related to real estate brokerage practice. (5-8-09)

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**  
**39.03.15 - RULES GOVERNING INTERSTATE EXCESS WEIGHT PERMITS**  
**DOCKET NO. 39-0315-1301**  
**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2013.

**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 40-312 and 49-1004, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2013.

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 rule-making:

Amendments to Idaho Code in Senate Bills 1064 and 1117 and House Bill 322 have altered the process for the designation of routes for loads of up to 129,000 pounds. Those amendments require updates to IDAPA 39.03.15 as well as 39.03.22.

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

This rulemaking is necessary for compliance with changes in House Bill 1064, Senate Bill 1117, and House Bill 322 from the 2013 Legislative Session.

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

There are no fees being imposed or increased by this rulemaking.

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

There is no fiscal impact to the state general fund.

**NEGOTIATED RULE-MAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because changes to this rule were necessary to comply with Senate Bill 1064, which codified the routes designated in the 129,000 Pound Pilot Project, and Senate Bill 1117 and House Bill 322, which authorize jurisdictions to consider additional routes for vehicle combinations up to 129,000 Pounds when specified criteria has been met. Changes to all rules associated with these legislative actions were developed by a sub-committee, led by Idaho Transportation Board Member Jim Kempton, and members appointed by the Board Chairman Jerry Whitehead, which included additional Board Members, ITD staff, ISP staff, and representatives from the Department of Commerce, Idaho Trucking Advisory Council, the Local Highway Technical Assistance Council, and other participants, as needed.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

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 **October 24, 2013**. The comment period has been extended to coincide with the last public hearing date. This date was amended after the publication of the legal notice.

DATED this 28th day of June, 2013.

Lori Garza, Office of Governmental Affairs  
Idaho Transportation Department  
3311 W State St, PO Box 7129  
Boise ID 83707-1129  
Phone - 208-334-8810 / FAX - 208-332-4107  
[lori.garza@itd.idaho.gov](mailto:lori.garza@itd.idaho.gov)

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**THE FOLLOWING IS THE TEMPORARY RULE AND TEXT OF THE PROPOSED RULE  
FOR DOCKET NO. 39-0315-1301**

**IDAPA 39  
TITLE 03  
CHAPTER 15**

**39.03.15 - RULES GOVERNING INTERSTATE EXCESS WEIGHT PERMITS FOR REDUCIBLE LOADS**

**000. LEGAL AUTHORITY.**

This rule, governing vehicles operating on the Interstate and non-interstate highway system in excess of eighty thousand (80,000) pounds, is adopted under the authority of Sections 40-312 and 49-1004, Idaho Code.

~~(10-2-89)~~(7-1-13)T

**001. TITLE AND SCOPE.**

**01. Title.** This rule shall be cited as IDAPA 39.03.15, "Rules Governing Excess Weight Permits for Reducible Loads," IDAPA 39, Title 03, Chapter 15. (7-1-13)T

**02. Scope.** This rule authorizes the issuance of special permits which allow vehicle combinations to operate in excess of eighty thousand (80,000) pounds when hauling reducible loads on the Interstate and non-interstate highway system if legal axle weight limits are not exceeded. ~~(10-2-89)~~(7-1-13)T

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations for this chapter. (7-1-13)T

**003. ADMINISTRATIVE APPEALS.**

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (7-1-13)T

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference in this chapter. (7-1-13)T

**005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.**

**01. Street And Mailing Address.** The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of PO Box 7129, Boise, ID 83707-1129. (7-1-13)T

**02. Office Hours.** Daily office hours are 7:30 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (7-1-13)T

**03. Telephone and Fax Numbers.** The central office may be contacted during office hours by phone at 208-334-8420, 1-800-662-7133 or by fax at 334-8419. (7-1-13)T

**006. PUBLIC RECORDS ACT COMPLIANCE.**

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. (7-1-13)T

**0027. -- 009. (RESERVED)**

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. GENERAL REQUIREMENTS AND CONDITIONS.**

**01. Weights Allowed on Interstate.** The Federal Highway Amendment Act of 1974 established allowable legal weight limits on Interstate System Highways at twenty thousand (20,000) pounds on single axles, thirty-four thousand (34,000) pounds on tandems, and ~~formula weights for~~ total gross loads not exceeding eighty thousand (80,000) pounds. ~~(10-2-89)~~(7-1-13)T

**02. Weights Allowed on Non-Interstate Highways.** Allowable legal weight limits on non-interstate highways are set at twenty thousand (20,000) pounds on single axles, thirty-seven thousand eight hundred (37,800) pounds on tandems, and total gross loads not exceeding eighty thousand (80,000) pounds. (7-1-13)T

**023. Permits Types to Exceed Eighty Thousand Pounds Gross Weight.** ~~Excess weight p~~Permits will be issued for vehicle combinations operating on Interstate ~~Routes and non-interstate highways~~ with total gross loads exceeding eighty thousand (80,000) pounds but not to exceed twenty thousand (20,000) per single axle, thirty-four thousand (34,000) pounds per tandem, and not to exceed the weight limit for any group of two (2) or more consecutive axles established by Section 49-1001, Idaho Code. ~~Combination excess weight and extra length permits are available.~~ ~~(1-3-92)~~(7-1-13)T

**a. Excess Weight Permit - gross weight limited to one hundred five thousand five hundred (105,500) pounds on interstate and non-interstate highways.** (7-1-13)T

**b. Extra Length/Excess Weight Permit - gross weight limited to one hundred five thousand five hundred (105,500) pounds on interstate and non-interstate highways and length limited to those specified in IDAPA 39.03.22, "Rules Governing Overlegal Permits for Extra Length, Excess Weight and Up to 129,000 Pound Vehicle Combinations."** (7-1-13)T

**c. Up to One Hundred Twenty-Nine Thousand (129,000) Pounds - gross weight not to exceed one hundred twenty-nine thousand (129,000) pounds on designated highways and length limited to those specified in IDAPA 39.03.22, "Rules Governing Overlegal Permits for Extra Length, Excess Weight and Up to 129,000 Pound Vehicle Combinations."** (7-1-13)T

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**

**39.03.22 - RULES GOVERNING OVERLEGAL PERMITS  
FOR EXTRA-LENGTH VEHICLE COMBINATIONS**

**DOCKET NO. 39-0322-1301**

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

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2013.

**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 rule-making procedures have been initiated. The action is authorized pursuant to Section 40-312, Idaho Code.

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

<b>Monday, October 7, 2013, 4:00 to 7:00 p.m. Local Time</b>	
<b>Red Lion Hotel 1555 Pocatello Creek Road Pocatello, ID 83201</b>	<b>Shilo Inn Suites 780 Lindsay Boulevard Idaho Falls, ID 83402</b>

<b>Wednesday, October 9, 2013, 4:00 to 7:00 p.m. Local Time</b>	
<b>Best Western Plus Coeur d'Alene Inn 506 W. Appleway Avenue Coeur d'Alene, ID 83814</b>	<b>Red Lion Hotel 621 21st Street Lewiston, ID 83501</b>

<b>Wednesday, October 16, 2013, 4:00 to 7:00 p.m. Local Time</b>	
<b>Best Western Plus Twin Falls Hotel 1377 Blue Lakes Boulevard Twin Falls, Idaho 83301</b>	

<b>Thursday, October 17, 2013, 4:00 to 7:00 p.m. Local Time</b>	
<b>Red Lion Hotel 1800 Fairview Avenue Boise, Idaho 83702</b>	

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 rule-making:

Amendments to Idaho Code in Senate Bill 1064 have codified the designation of specified routes for loads up to 129,000 pounds. Amendments to Idaho Code in Senate Bill 1117 and House Bill 322 have altered the process for the further designation of routes for and permitting of loads of up to 129,000 pounds. Those amendments require updates to this rule, among others to implement this practice.

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

This rulemaking implements the provisions of Senate Bill 1064 and provides continuity of motor carrier operations. It provides clarification regarding the vehicle combinations governed under this rule, clarifies that only non-interstate routes will allow weights above 105,500 pounds up to 129,000 pounds, and specifies the operating requirements on designated routes, authorized for up to 129,000 pounds. The order of the information in the rule has been modified for better flow and understanding of the requirements.

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

There are no fees being imposed or increased by this rulemaking.

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

There is no fiscal impact to the state general fund.

**NEGOTIATED RULE-MAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because changes to this rule were necessary to comply with Senate Bill 1064, which codified the routes designated in the 129,000 Pound Pilot Project, and Senate Bill 1117 and House Bill 322, which authorize jurisdictions to consider additional routes for vehicle combinations up to 129,000 pounds when specified criteria has been met. Changes to all rules associated with these legislative actions were developed by a sub-committee, led by Idaho Transportation Board Member Jim Kempton, and members appointed by the Board Chairman Jerry Whitehead, which included additional Board Members, ITD staff, ISP staff, and representatives from the Department of Commerce, Idaho Trucking Advisory Council, the Local Highway Technical Assistance Council, and other participants, as needed.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before **October 24, 2013**. The comment period has been extended to coincide with the last public hearing date. This date was amended after the publication of the legal notice.

DATED this 8th day of July, 2013.

Lori Garza, Office of Governmental Affairs  
Idaho Transportation Department  
3311 W State St, PO Box 7129  
Boise ID 83707-1129  
Phone - 208-334-8810 / FAX - 208-332-4107  
[lori.garza@itd.idaho.gov](mailto:lori.garza@itd.idaho.gov)

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**THE FOLLOWING IS THE TEMPORARY RULE AND TEXT OF THE PROPOSED RULE  
FOR DOCKET NO. 39-0322-1301**

IDAPA 39  
TITLE 03  
CHAPTER 22

39.03.22 - RULES GOVERNING OVERLEGAL PERMITS FOR  
EXTRA-LENGTH, EXCESS WEIGHT, AND UP TO 129,000 POUND VEHICLE COMBINATIONS

001. TITLE AND SCOPE.

01. **Title.** This rule shall be cited as IDAPA 39.03.22, "Rules Governing Overlegal Permits for Extra-Length, Excess Weight, and Up to 129,000 Pound Vehicle Combinations," IDAPA 39, Title 03, Chapter 22. ~~(3-22-00)~~(7-1-13)T

02. **Scope.** This rule states the requirements and routes for extra-length, excess weight and up to one hundred twenty-nine thousand (129,000) pound vehicle combinations. ~~(3-22-00)~~(7-1-13)T

(BREAK IN CONTINUITY OF SECTIONS)

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

01. **Street And Mailing Address.** The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of PO Box 7129, Boise, ID 83707-1129. (3-20-04)

02. **Office Hours.** Daily office hours are 7:30 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (4-7-11)

03. **Telephone and Fax Numbers.** The central office may be contacted during office hours by phone at 208-334-8420, 1-800-662-7133 or by fax at 334-8419. ~~(3-20-04)~~(7-1-13)T

(BREAK IN CONTINUITY OF SECTIONS)

100. DESIGNATED ROUTES FOR EXTRA LENGTH VEHICLE COMBINATIONS CARRYING UP TO ONE HUNDRED FIVE THOUSAND FIVE HUNDRED POUNDS SHALL BE DESIGNATED IN FOUR CATEGORIES.

The ~~e~~"Extra Length Map" listing the designated routes for vehicles operating up to one hundred five thousand five hundred (105,500) pounds is available at the Idaho Transportation Department offices. This map is not the same as the "Designated Routes Up to 129,000 Pound Map" listed in Section 200. ~~(10-2-89)~~(7-1-13)T

01. **Blue-Coded Routes.** Routes for combinations not exceeding ninety-five (95) feet in overall length including load overhang (blue-coded routes). A vehicle combination operating on routes designated for up to ninety-five (95) feet shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed five point five zero (5.50) feet on a one hundred sixty-five (165) foot radius when computed. (7-1-13)T

02. **Red-Coded Routes.** Routes for combinations of vehicles not exceeding one hundred fifteen (115) feet in overall length including load overhang (red-coded routes). A vehicle combination operating on routes designated for up to one hundred fifteen (115) feet shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed six point five zero (6.50) feet on a one hundred sixty-five (165) foot radius

when computed.

(7-1-13)T

**03. Black-Coded Routes.** Interstate system routes and specified interchanges providing access to approved breakdown areas located in close proximity to the Interstate system (black-coded routes). A vehicle combination operating on routes in this category shall be designed and assembled in such a manner that its off-tracking may exceed six point five zero (6.50) feet but shall not exceed eight point seventy-five (8.75) feet when computed. Specified interchanges providing access to approved breakdown areas are required to be used by combinations that exceed six point five zero (6.50) feet off-tracking. The specified interchanges will be authorized for either combinations in excess of six point five zero (6.50) feet off-tracking, but not in excess of seven (7) feet off-tracking, or for combinations in excess of seven (7) feet off-tracking but not in excess of eight point seventy-five (8.75) feet off-tracking.

(7-1-13)T

**04. Green-Coded Routes.** Selected state highway routes (green coded routes) for operation of a vehicle combination whereby its maximum off-tracking will not exceed three (3) feet on a one hundred sixty-five (165) foot radius when computed, and its overall length including load overhang does not exceed eighty-five (85) feet. Route approval shall be subject to analysis of pavement condition, bridge capacity, safety considerations, pavement width, curvature, traffic volumes and traffic operations.

(7-1-13)T

101. -- 199. (RESERVED)

*[Previously codified Section 200 is being moved and renumbered to Section 300]*

~~4200. PILOT PROJECT TO EXCEED ONE HUNDRED FIVE THOUSAND, FIVE HUNDRED POUNDS DESIGNATED ROUTES FOR VEHICLE COMBINATIONS UP TO ONE HUNDRED TWENTY-NINE THOUSAND POUNDS.~~

In addition to the ~~previously stated~~ requirements ~~that must be met~~ listed in Sections 300 and 400, vehicles combinations operating ~~at weights in excess of one hundred five thousand five hundred (105,500) up to one hundred twenty-nine thousand (129,000) pounds,~~ must ~~also~~ meet the following requirements: ~~(3-22-00)(7-1-13)T~~

**01. Brakes.** All axles ~~must~~ shall be equipped with brakes ~~that meet the Federal Motor Carrier Safety Regulations.~~ ~~(3-22-00)(7-1-13)T~~

**02. Permits.** Permits will be vehicle specific and will ~~list the axle spacings, number of axles and the gross weight. The state issued permit must be displayed in the lower right hand corner of the windshield~~ be in addition to any extra length and excess weight permit for operation of vehicle combinations at weights up to one hundred five thousand five hundred (105,500) pounds. ~~(3-20-04)(7-1-13)T~~

**03. Trip Logs Designated Routes.** ~~Trip logs will be required to be submitted quarterly in a standard format and submitted electronically with the following information:~~ All designated state approved routes for vehicle combinations to operate at weights above one hundred five thousand five hundred (105,500) pounds will be identified on the "Designated Routes Up to 129,000 Pound Map" which is available at the Idaho Transportation Department. ~~(3-20-04)(7-1-13)T~~

**a.** ~~Each trip must be listed (a trip is defined as each way unladen or laden);~~ Routes for combinations of vehicles not exceeding one hundred fifteen (115) feet in overall length including load overhang (magenta-coded routes). A vehicle combination operating on routes designated for up to one hundred fifteen (115) feet shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed six point five zero (6.50) feet on a one hundred sixty-five (165) foot radius when computed. ~~(3-22-00)(7-1-13)T~~

~~b. Date trip occurred;~~ ~~(3-22-00)~~

~~c. Origin;~~ ~~(3-22-00)~~

~~d. Destination;~~ ~~(3-22-00)~~

~~e. Route (list each highway traveled);~~ ~~(3-20-04)~~

~~f. Gross weight of vehicle configuration (unladen or laden); and (3-20-04)~~

~~g. Unit number. (3-20-04)~~

~~04. Failure to Comply. The motor carrier's failure to submit trip logs quarterly, as required by Subsection 400.03, will result in the revocation of all pilot project permits issued to the carrier. Upon submission of all delinquent trip logs, new permits may be issued. (3-20-04)~~

201. -- 299. (RESERVED)

*[Previously codified Section 300 is being moved and renumbered to Section 400]*

**2300. CONDITIONS AND OPERATING REQUIREMENTS FOR EXTRA-LENGTH, EXCESS WEIGHT, AND UP TO 129,000 POUND VEHICLE COMBINATIONS.**

*Extra-length All* vehicle combinations shall be subject to the following conditions, limitations, and requirements: ~~(10-2-89)(7-1-13)T~~

**01. Extra-Length Vehicle Combinations Cargo Carrying Units.** Vehicle combinations operating with an overall length in excess of the limits imposed in Section 49-1010, Idaho Code, shall consist of not more than four (4) units, shall not exceed one hundred fifteen (115) feet overall and no such vehicle combination shall include more than three (3) cargo units except that a full truck and full trailer may have an overall length in excess of seventy-five (75) feet but not in excess of eighty-five (85) feet including load overhang. ~~(3-20-04)(7-1-13)T~~

~~02. Routes for Extra-Length Operations. Shall be designated in four (4) categories: (9-4-91)~~

~~a. Routes for combinations not exceeding ninety-five (95) feet in overall length including load overhang (blue-coded routes). An extra-length combination operating on routes designated for ninety-five (95) foot combinations shall be designed and assembled in a manner whereby its maximum off tracking will not exceed five point five zero (5.50) feet on a one hundred sixty-five (165) foot radius when computed by the equation developed by Western Highway Institute (WHI) for computation of maximum vehicular off track. (4-7-11)~~

~~b. Routes for combinations of vehicles not exceeding one hundred fifteen (115) feet in overall length including load overhang (red-coded routes). An extra-length combination operating on routes designated for one hundred fifteen (115) foot combinations shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed six point five zero (6.50) feet on a one hundred sixty-five (165) foot radius when computed by the WHI equation referred to above. (3-20-04)~~

~~c. Interstate system routes and specified interchanges providing access to approved breakdown areas located in close proximity to the Interstate system (black-coded routes). An extra-length combination operating on routes in this category shall be designed and assembled in such a manner that its off tracking may exceed six point five zero (6.50) feet but shall not exceed eight point seventy-five (8.75) feet when computed by the WHI equation referred to above. Specified interchanges providing access to approved breakdown areas are required to be used by combinations that exceed six point five zero (6.50) feet off tracking. The specified interchanges will be authorized for either combinations in excess of six point five zero (6.50) feet off tracking, but not in excess of seven (7) feet off tracking, or for combinations in excess of seven (7) feet off tracking but not in excess of eight point seventy-five (8.75) feet off tracking. (3-22-00)~~

~~d. Selected state highway routes (green-coded routes) for operation of an extra-length combination whereby its maximum off tracking will not exceed three (3) feet on a one hundred sixty-five (165) foot radius when computed by the WHI equation and its overall length including load overhang does not exceed eighty-five (85) feet. Route approval shall be subject to analysis of pavement condition, bridge capacity, safety considerations, pavement width, curvature, traffic volumes and traffic operations. (8-25-94)~~

**032. Power Unit.** The power unit of *extra-length all vehicle* combinations shall have adequate power and traction to maintain a minimum of ~~fifteen~~ **twenty** ~~(1520)~~ miles per hour under normal operating conditions on any

up-grade over which the combination is operated. (10-2-89)

**043. Connecting Devices.** Fifth wheel, drawbar, and other coupling devices shall be as specified by Federal Motor Carrier Safety Regulations, Part 393. (4-7-11)

**054. ~~Weather Hazardous Travel Conditions~~ Restrictions.** Extreme caution in the operation of ~~an extra length permitted~~ vehicle combinations shall be exercised when hazardous conditions ~~such as those caused by snow, ice, sleet, fog, mist, rain, dust, or smoke adversely affect visibility or traction exist~~. ~~Speed shall be reduced when such conditions exist. When conditions become sufficiently dangerous, the company or the operator shall discontinue operations and operations shall not be resumed until the extra length vehicle combination can be safely operated. The state may restrict or prohibit operations during periods when in the state's judgment traffic, weather, or other safety conditions make such operations unsafe or inadvisable.~~ The movement of overlegal vehicles and/or loads by overlegal permit shall be prohibited and otherwise valid permits shall automatically become invalid en route when travel conditions become hazardous. Hazardous conditions include, but are not limited to, ice, snow or frost; or when visibility is restricted to less than five hundred (500) feet. (~~8-25-94~~)(7-1-13)T

**065. Trailer Weight Sequence.** In any extra-length combination, the respective loading of any trailer shall not be substantially greater than the weight of any trailer located ahead of it in the vehicle combination. (Substantially greater shall be defined as more than four thousand (4,000) pounds heavier.) (10-2-89)

**076. Operating Restrictions.** Operators of all vehicle combinations governed by this rule shall comply with the following operating restrictions: (8-25-94)

**a.** A minimum distance of five hundred (500) feet shall be maintained between combinations of vehicles except when overtaking and passing. (10-2-89)

**b.** Except when passing another vehicle traveling in the same direction, the combination shall be driven so as to remain at all times on the right hand side of the centerline of a two (2) lane, two (2) way highway, or on the right hand side of a lane stripe or marker of a highway of four (4) or more lanes. (1-1-90)

**c.** Be in compliance with all Federal Motor Carrier Safety Regulations. (3-22-00)

**087. Insurance Requirements.** Every vehicle combination operated under this rule shall be covered by insurance of not less than five hundred thousand dollars (\$500,000) combined single limit. The permittee or driver of the permitted vehicle combination shall carry in the vehicle evidence of insurance written by an authorized insurer to certify that insurance in this minimum amount is currently in force. (~~8-25-94~~)(7-1-13)T

**098. Tire Limitations.** Single axles on extra length vehicle combinations shall be equipped with four (4) tires except on the steering axle, or variable load suspension axles (VLS-lift axles), unless equipped with fifteen (15) inch wide or wider single tires. Multiple axle configurations may be equipped with single tires on each of the axles as long as the pounds-per-inch width of tire does not exceed ~~the limits as listed in Section 49-1002, Idaho Code~~ six hundred (600) pounds, the manufacturers rating or legal weights whichever is less. (~~5-8-09~~)(7-1-13)T

**09. Brakes.** Brakes shall meet the Federal Motor Carrier Safety Regulations. (7-1-13)T

301. -- 399. (RESERVED)

*[Previously codified Section 400 is being moved and renumbered to Section 200]*

**3400. OVERLEGAL PERMITS FOR OPERATIONS OF EXTRA-LENGTH, OPERATIONS EXCESS WEIGHT, AND UP TO 129,000 POUND VEHICLE COMBINATIONS.**

**01. Permit Attachments.** All vehicles in extra length operation shall be allowed to travel under the authority of overlegal permits issued to the power unit. A copy of this rule shall accompany and shall be a part of all annual extra-length, excess weight, and up to 129,000 pound permits. An allowable gross loads table shall accompany and be referred to on the face of the permit. ~~Extra length o~~Operations shall be valid only on routes of the

state highway system designated for such purposes as set forth on the ~~e~~“~~Extra Length color-coded m~~Map” of designated routes, or the “Designated Routes Up to 129,000 Pound Map.” which shall accompany the permit, and is available at the overlegal permit office; and ports of entry; ~~and highway district offices.~~ Combination extra-length and excess weight permits are available. ~~(3-22-00)~~(7-1-13)T

**02. Permit Requirements and Special Requirements.** Permits issued for operations of extra-length, excess weight, and up to 129,000 pound vehicle combinations shall be subject to the general requirements of Section ~~23~~00, ~~Conditions and Requirements For Extra Length,~~ and to the following special conditions. ~~(8-25-94)~~(7-1-13)T

**a.** The operator of any extra-length, excess weight, and up to 129,000 pound vehicle combination; ~~(except triples combinations)~~ shall complete the Off-Track Computation Form to provide internal dimensions of the combination and computation of off-track as evidence of compliance with maximum off-track requirements specified for the designated route being traveled. The completed Off-Track Computation Form, when required, shall be available for inspection by enforcement officers with the permit for the extra-length vehicle combination. When the Off-Track Computation Form is required, permit shall be invalid until the form is completed and available for inspection. ~~(3-20-04)~~(7-1-13)T

**b.** ~~Extra-length p~~Permits shall become automatically invalid subject to conditions cited in IDAPA 39.03.23, “Rules Governing Revocation of Special Permits.” ~~(3-22-00)~~(7-1-13)T

**03. Exceeding Allowed Length and/or Off-Track Limitations.** Extra-length, excess weight, and up to 129,000 pound vehicle combinations apprehended for exceeding allowed length and/or off-track limitations as set forth in this rule shall be subject to the following course of action: ~~(8-25-94)~~(7-1-13)T

**a.** The vehicle combination will be escorted by the apprehending officer to the first safe parking location; and (8-25-94)

**b.** The driver of the extra-length vehicle combination will be issued a single trip, one (1) day permit via a specified route to the nearest permitted route. The condition of this permit shall require an advance pilot/escort vehicle to escort the extra-length vehicle combination, and the pilot/escort vehicle shall meet the pilot/escort vehicle requirements as set forth in IDAPA 39.03.12, “Rules Governing Safety Requirements of Overlegal Permits.” ~~(3-22-00)~~(7-1-13)T

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.22 - RULES GOVERNING OVERLEGAL PERMITS FOR EXTRA-LENGTH VEHICLE COMBINATIONS

DOCKET NO. 39-0322-1302

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking procedures. The action is authorized pursuant to Section 40-312, Idaho Code.

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

Monday, October 7, 2013, 4:00 to 7:00 p.m. Local Time	
<b>Red Lion Hotel</b> 1555 Pocatello Creek Road Pocatello, ID 83201	<b>Shilo Inn Suites</b> 780 Lindsay Boulevard Idaho Falls, ID 83402

Wednesday, October 9, 2013, 4:00 to 7:00 p.m. Local Time	
<b>Best Western Plus Coeur d'Alene Inn</b> 506 W. Appleway Avenue Coeur d'Alene, ID 83814	<b>Red Lion Hotel</b> 621 21st Street Lewiston, ID 83501

Wednesday, October 16, 2013, 4:00 to 7:00 p.m. Local Time	
<b>Best Western Plus Twin Falls Hotel</b> 1377 Blue Lakes Boulevard Twin Falls, Idaho 83301	

Thursday, October 17, 2013, 4:00 to 7:00 p.m. Local Time	
<b>Red Lion Hotel</b> 1800 Fairview Avenue Boise, Idaho 83702	

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

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

This rulemaking implements the provisions of Senate Bill 1117. It provides for an administrative process to add designated routes for vehicle combinations up to 129,000 pounds, including the application, review and analysis, determination, public hearing and appeals. The rule also re-orders information in the rule for improved flow and understanding requirements.

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

There are no fees being imposed or increased by this rulemaking.

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

There is no fiscal impact to the state general fund.

**NEGOTIATED RULE-MAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because changes to this rule were necessary to comply with Senate Bill 1064, which codified the routes designated in the 129,000 Pound Pilot Project, and Senate Bill 1117 and House Bill 322, which authorize jurisdictions to consider additional routes for vehicle combinations up to 129,000 pounds when specified criteria has been met. That criteria, based on national standards for engineering and vehicle configuration is not subject to negotiation. Changes to all rules associated with these legislative actions were developed by a sub-committee, led by Idaho Transportation Board Member Jim Kempton, and members appointed by the Board Chairman Jerry Whitehead, which included additional Board Members, ITD staff, ISP staff, and representatives from the Department of Commerce, Idaho Trucking Advisory Council, the Local Highway Technical Assistance Council, and other participants, as needed.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before **October 24, 2013**. The comment period has been extended to coincide with the last public hearing date. This date was amended after the publication of the legal notice.

DATED this 8th day of July, 2013.

Lori Garza, Office of Governmental Affairs  
Idaho Transportation Department  
3311 W State St, PO Box 7129  
Boise ID 83707-1129  
Phone - 208-334-8810 / FAX - 208-332-4107  
[lori.garza@itd.idaho.gov](mailto:lori.garza@itd.idaho.gov)

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**THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 39-0322-1302**

**000. LEGAL AUTHORITY.**

This rule, governing the movement of vehicles which are in excess of the sizes allowed by 49-1004, 49-1004A, and 49-1010, is adopted under the authority of Section 40-312, Idaho Code. (47-H)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

[Codified Section 200 is being moved and renumbered to proposed Section 300]

**4200. PILOT PROJECT TO EXCEED ONE HUNDRED FIVE THOUSAND, FIVE HUNDRED POUNDS UP TO ONE HUNDRED TWENTY-NINE THOUSAND POUNDS.**

In addition to the previously stated requirements that must be met, vehicles operating at weights in excess of one hundred five thousand five hundred (105,500) pounds, must also meet the following requirements: (3-22-00)

01. **Brakes.** All axles must be equipped with brakes. (3-22-00)
02. **Permits.** Permits will be vehicle specific and will list the axle spacings, number of axles and the gross weight. The state issued permit must be displayed in the lower right hand corner of the windshield. (3-20-04)
03. **~~Trip Logs~~ Designated Routes.** ~~Trip logs will be required to be submitted quarterly in a standard format and submitted electronically with the following information:~~ All designated state approved routes for vehicle combinations to operate at weights above one hundred five thousand five hundred (105,500) pounds will be identified on the "Designated Routes Up to 129,000 Pound Map" which is available at the Idaho Transportation Department. (3-20-04)(    )
  - a. ~~Each trip must be listed (a trip is defined as each way unladen or laden);~~ Routes for combinations of vehicles not exceeding one hundred fifteen (115) feet in overall length including load overhang (magenta-coded routes). A vehicle combination operating on routes designated for up to one hundred fifteen (115) feet shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed six point five zero (6.50) feet on a one hundred sixty-five (165) foot radius when computed. (3-22-00)(    )
  - b. ~~Date trip occurred;~~ Routes for combinations not exceeding ninety-five (95) feet in overall length including load overhang (brown-coded routes). A vehicle combination operating on routes designated for up to ninety-five (95) feet shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed five point five zero (5.50) feet on a one hundred sixty-five (165) foot radius when computed. (3-22-00)(    )
  - c. ~~Origin;~~ Routes for combinations operating on non-state maintained highways (orange-coded routes). Local jurisdictions adding, modifying or deleting non-state maintained routes for vehicle combinations operating up to one hundred twenty-nine thousand (129,000) pounds shall provide the route information to the department. (3-22-00)(    )
  - ~~d. Destination;~~ (3-22-00)
  - ~~e. Route (list each highway traveled);~~ (3-20-04)
  - ~~f. Gross weight of vehicle configuration (unladen or laden); and~~ (3-20-04)
  - ~~g. Unit number.~~ (3-20-04)
04. **~~Failure to Comply.~~** ~~The motor carrier's failure to submit trip logs quarterly, as required by Subsection 400.03, will result in the revocation of all pilot project permits issued to the carrier. Upon submission of all delinquent trip logs, new permits may be issued.~~ Requests for Adding Idaho Transportation Department Maintained Non-Interstate Routes. Routes not currently designated to operate at up to one hundred twenty-nine thousand (129,000) pounds may be added as follows: (3-20-04)(    )
  - a. Request Form Submission. The request form (ITD form number 4886) will be completed and submitted to the Idaho Transportation Department Office of the Chief Engineer by the requestor. (    )
  - b. Request Review/Analysis Process. (    )
    - i. Once submitted, the request will be reviewed for completeness and the department's analysis will be completed for engineering and safety criteria. (    )
    - ii. Once the analysis is completed, the request will be submitted to the Chief Engineer, who will report

to the Idaho Transportation Board Sub-committee. ( )

iii. The Idaho Transportation Board Sub-committee will make a recommendation to the Idaho Transportation Board based upon the department's analysis. ( )

iv. If the Idaho Transportation Board Sub-committee recommends approval and the Idaho Transportation Board concurs, the Board shall instruct the Chief Engineer to schedule a hearing in the district(s) where the requested route is located. ( )

v. The Chief Engineer or designee will conduct the hearing(s) and make a determination after the hearing(s) are held. Following the determination, the Chief Engineer will issue Findings and a Preliminary Order, hereafter referred to as Preliminary Order. ( )

vi. The Department will notify the requestor of the Chief Engineer's Preliminary Order and post to the Idaho Transportation Department Web site. ( )

vii. An appeal of the Preliminary Order may be made pursuant to the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. The appeal shall be made to the Director of the Idaho Transportation Department. ( )

c. Local Highways Approved for Travel Up to 129,000 pounds. Local routes will be added or removed on the "Designated Routes Up to 129,000 Pound Map" when information and approval is provided to the Department by the local jurisdiction having authority over the local route. ( )

**201. -- 299. (RESERVED)**

*[Codified Section 300 is being moved and renumbered to proposed Section 400]*

**2300. CONDITIONS AND REQUIREMENTS FOR EXTRA-LENGTH.**

Extra-length vehicle combinations shall be subject to the following conditions, limitations, and requirements: (10-2-89)

**01. Extra-Length Vehicle Combinations.** Vehicle combinations operating with an overall length in excess of the limits imposed in Section 49-1010, Idaho Code, shall consist of not more than four (4) units, shall not exceed one hundred fifteen (115) feet overall and no such vehicle combination shall include more than three (3) cargo units except that a full truck and full trailer may have an overall length in excess of seventy-five (75) feet but not in excess of eighty-five (85) feet including load overhang. (3-20-04)

**02. Routes for Extra-Length Operations.** Shall be designated in four (4) categories: (9-4-91)

**a.** Routes for combinations not exceeding ninety-five (95) feet in overall length including load overhang (blue-coded routes). An extra-length combination operating on routes designated for ninety-five (95) foot combinations shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed five point five zero (5.50) feet on a one hundred sixty-five (165) foot radius when computed by the equation developed by Western Highway Institute (WHI) for computation of maximum vehicular off-track. (4-7-11)

**b.** Routes for combinations of vehicles not exceeding one hundred fifteen (115) feet in overall length including load overhang (red-coded routes). An extra-length combination operating on routes designated for one hundred fifteen (115) foot combinations shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed six point five zero (6.50) feet on a one hundred sixty-five (165) foot radius when computed by the WHI equation referred to above. (3-20-04)

**c.** Interstate system routes and specified interchanges providing access to approved breakdown areas located in close proximity to the Interstate system (black-coded routes). An extra-length combination operating on routes in this category shall be designed and assembled in such a manner that its off-tracking may exceed six point five zero (6.50) feet but shall not exceed eight point seventy-five (8.75) feet when computed by the WHI equation

referred to above. Specified interchanges providing access to approved breakdown areas are required to be used by combinations that exceed six point five zero (6.50) feet off-tracking. The specified interchanges will be authorized for either combinations in excess of six point five zero (6.50) feet off-tracking, but not in excess of seven (7) feet off-tracking, or for combinations in excess of seven (7) feet off-tracking but not in excess of eight point seventy-five (8.75) feet off-tracking. (3-22-00)

**d.** Selected state highway routes (green coded routes) for operation of an extra-length combination whereby its maximum off-tracking will not exceed three (3) feet on a one hundred sixty-five (165) foot radius when computed by the WHI equation and its overall length including load overhang does not exceed eighty-five (85) feet. Route approval shall be subject to analysis of pavement condition, bridge capacity, safety considerations, pavement width, curvature, traffic volumes and traffic operations. (8-25-94)

**03. Power Unit.** The power unit of extra-length combinations shall have adequate power and traction to maintain a minimum of fifteen (15) miles per hour under normal operating conditions on any up-grade over which the combination is operated. (10-2-89)

**04. Connecting Devices.** Fifth wheel, drawbar, and other coupling devices shall be as specified by Federal Motor Carrier Safety Regulations, Part 393. (4-7-11)

**05. Weather Restrictions.** Extreme caution in the operation of an extra length vehicle combination shall be exercised when hazardous conditions such as those caused by snow, ice, sleet, fog, mist, rain, dust, or smoke adversely affect visibility or traction. Speed shall be reduced when such conditions exist. When conditions become sufficiently dangerous, the company or the operator shall discontinue operations and operations shall not be resumed until the extra length vehicle combination can be safely operated. The state may restrict or prohibit operations during periods when in the state's judgment traffic, weather, or other safety conditions make such operations unsafe or inadvisable. (8-25-94)

**06. Trailer Weight Sequence.** In any extra-length combination, the respective loading of any trailer shall not be substantially greater than the weight of any trailer located ahead of it in the vehicle combination. (Substantially greater shall be defined as more than four thousand (4,000) pounds heavier.) (10-2-89)

**07. Operating Restrictions.** Operators of all vehicle combinations governed by this rule shall comply with the following operating restrictions: (8-25-94)

**a.** A minimum distance of five hundred (500) feet shall be maintained between combinations of vehicles except when overtaking and passing. (10-2-89)

**b.** Except when passing another vehicle traveling in the same direction, the combination shall be driven so as to remain at all times on the right hand side of the centerline of a two (2) lane, two (2) way highway, or on the right hand side of a lane stripe or marker of a highway of four (4) or more lanes. (1-1-90)

**c.** Be in compliance with all Federal Motor Carrier Safety Regulations. (3-22-00)

**08. Insurance Requirements.** Every combination operated under this rule shall be covered by insurance of not less than five hundred thousand dollars (\$500,000) combined single limit. The permittee or driver of the permitted vehicle combination shall carry in the vehicle evidence of insurance written by an authorized insurer to certify that insurance in this minimum amount is currently in force. (8-25-94)

**09. Tire Limitations.** Single axles on extra-length vehicle combinations shall be equipped with four (4) tires except on the steering axle, or variable load suspension axles (VLS-lift axles), unless equipped with fifteen (15) inch wide or wider single tires. Multiple axle configurations may be equipped with single tires on each of the axles as long as the pounds-per-inch width of tire does not exceed the limits as listed in Section 49-1002, Idaho Code. (5-8-09)

**301. -- 399. (RESERVED)**

*[Codified Section 400 is being moved and renumbered to proposed Section 200]*

**3400. OVERLEGAL PERMITS FOR EXTRA-LENGTH OPERATIONS.**

**01. Permit Attachments.** All vehicles in extra-length operation shall be allowed to travel under the authority of overlegal permits issued to the power unit. A copy of this rule shall accompany and shall be a part of all annual extra-length permits. An allowable gross loads table shall accompany and be referred to on the face of the permit. Extra-length operations shall be valid only on routes of the state highway system designated for such purposes as set forth on the extra length color coded map of designated routes which shall accompany the permit, and is available at the overlegal permit office, ports of entry, and highway district offices. Combination extra-length and excess weight permits are available. (3-22-00)

**02. Permit Requirements and Special Requirements.** Permits issued for operations of extra-length combinations shall be subject to the general requirements of Section 200, Conditions and Requirements For Extra-Length, and to the following special conditions. (8-25-94)

**a.** The operator of any extra-length combination, (except triples combinations) shall complete the Off-Track Computation Form to provide internal dimensions of the combination and computation of off-track as evidence of compliance with maximum off-track requirements specified for the designated route being traveled. The completed Off-Track Computation Form, when required, shall be available for inspection by enforcement officers with the permit for the extra-length vehicle combination. When the off-track computation form is required, permit shall be invalid until the form is completed and available for inspection. (3-20-04)

**b.** Extra-length permits shall become automatically invalid subject to conditions cited in IDAPA 39.03.23, "Rules Governing Revocation of Special Permits." (3-22-00)

**03. Exceeding Allowed Length and/or Off-Track Limitations.** Extra-length vehicle combinations apprehended for exceeding allowed length and/or off-track limitations as set forth in this rule shall be subject to the following course of action: (8-25-94)

**a.** The vehicle combination will be escorted by the apprehending officer to the first safe parking location; and (8-25-94)

**b.** The driver of the extra length vehicle combination will be issued a single trip, one (1) day permit via a specified route to the nearest permitted route. The condition of this permit shall require an advance pilot/escort vehicle to escort the extra-length vehicle combination, and the pilot/escort vehicle shall meet the pilot/escort vehicle requirements as set forth in IDAPA 39.03.12, "Rules Governing Safety Requirements of Overlegal Permits." (3-22-00)

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**  
**39.03.23 - RULES GOVERNING REVOCATION OF OVERLEGAL PERMITS**  
**DOCKET NO. 39-0323-1301**  
**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2013.

**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 rule-making procedures have been initiated. The action is authorized pursuant to Sections 40-312 and 49-1004, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2013.

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 rule-making:

Amendments to Idaho Code in Senate Bills 1064 and 1117, and House Bill 322 have altered the process for the permitting of loads of up to 129,000 pounds. Those amendments require updates to IDAPA 39.03.23 to specify permit violations that will result in the revocation of an over legal permit and the revocation process.

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

This rulemaking implements the provisions of Senate Bill 1064 and provides continuity of motor carrier operations. Boiler plate language required by the Office of Administrative Rules has been inserted and other updates are included to make the rule consistent with current practice.

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

There are no fees being imposed or increased by this rulemaking.

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

There is no fiscal impact to the state general fund.

**NEGOTIATED RULE-MAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because changes to this rule were necessary to comply with Senate Bill 1064, which codified the routes designated in the 129,000 Pound Pilot Project, and Senate Bill 1117 and House Bill 322, which authorize jurisdictions to consider additional routes for vehicle combinations up to 129, 000 pounds when specified criteria has been met. Changes to all rules associated with these legislative actions were developed by a sub-committee, led by Idaho Transportation Board Member Jim Kempton, and members appointed by the Board Chairman Jerry Whitehead, which included additional Board Members, ITD staff, ISP staff, and representatives from the Department of Commerce, Idaho Trucking Advisory Council, the Local Highway Technical Assistance Council, and other participants, as needed.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before **October 24, 2013**. This date was amended after the publication of the legal notice.

DATED this 8th day of July, 2012.

Lori Garza, Office of Governmental Affairs  
Idaho Transportation Department  
3311 W State St, PO Box 7129  
Boise ID 83707-1129  
Phone - 208-334-8810 / FAX - 208-332-4107  
[lori.garza@itd.idaho.gov](mailto:lori.garza@itd.idaho.gov)

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**THE FOLLOWING IS THE TEMPORARY RULE AND TEXT OF THE PROPOSED RULE  
FOR DOCKET NO. 39-0323-1301**

**IDAPA 39  
TITLE 03  
CHAPTER 23**

**39.03.23 - RULES GOVERNING REVOCATION OF ~~SPECIAL~~ OVERLEGAL PERMITS**

**001. TITLE AND SCOPE.**

**01. Title.** This rule shall be cited as IDAPA 39.03.23, "Rules Governing Revocation of Overlegal Permits, IDAPA 39. Title 03, Chapter 23. (7-1-13)T

**02. Scope.** This rule identifies the circumstances when a permit can be revoked. ~~(10-2-89)~~(7-1-13)T

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations for this chapter. (7-1-13)T

**003. ADMINISTRATIVE APPEALS.**

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (7-1-13)T

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference in this chapter. (7-1-13)T

**005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.**

**01. Street And Mailing Address.** The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of PO Box 7129, Boise, ID 83707-1129. (7-1-13)T

**02. Office Hours.** Daily office hours are 7:30 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (7-1-13)T

**03. Telephone and Fax Numbers.** The central office may be contacted during office hours by phone at 208-334-8420, 1-800-662-7133 or by fax at 334-8419. (7-1-13)T

**006. PUBLIC RECORDS ACT COMPLIANCE.**

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. (7-1-13)T

~~007.~~ -- 009. (RESERVED)

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. REVOCATION OF PERMIT FOR ~~UNSAFE EQUIPMENT, FOR MOVING VIOLATIONS, OR~~ NON-COMPLIANCE WITH THE LIMITATIONS OR PROVISIONS OF THE PERMIT.**

**01. ~~Invalidation and~~ Disqualification of Permits.** The *special* permit shall become invalid and the cited vehicle may be disqualified for reissuance of *special* permits if convicted of the following: ~~(10-2-89)~~(7-1-13)T

a. The vehicle combination does not satisfy the requirements of Federal Motor Carrier Safety Regulations Part 393. ~~The permit may be restored to the permittee when repairs or corrections are made to the satisfaction of the inspecting officer.~~ (8-25-94)(7-1-13)T

b. ~~The permittee is apprehended exceeding size or weight limits or other provisions specified on the permit.~~ The vehicle combination violates permitting conditions (other than weight) for the following: ~~(10-2-89)~~(7-1-13)T

i. Failure to travel on Extra Length or Up to 129,000 Pound designated routes. (7-1-13)T

ii. Failure to properly display required flags and/or signs. (7-1-13)T

iii. Failure to provide required number of pilot cars and/or proper placement. (7-1-13)T

iv. Failure to provide required lighting for travel during hours of darkness. (7-1-13)T

v. Failure to travel during the hours of operation as specified on the permit. (7-1-13)T

vi. Failure to comply with wind velocity requirements when moving manufactured housing, office trailers and modular buildings. (7-1-13)T

vii. Failure to comply when travel conditions become hazardous. Hazardous conditions include, but are not limited to, ice, snow or frost; or when visibility is restricted to less than five hundred (500) feet. (7-1-13)T

c. ~~The permittee is convicted of violation of size or weight limits (Sections 49-1001 and 49-1010, Idaho Code), of posted speed limits, or of any speed limit specified on the permit, or in violation of any of the following traffic regulations: reckless or inattentive driving, illegal passing or illegal turning movements. Forfeiture of bail shall be treated the same as a conviction for the purpose of this section.~~ The vehicle combination violates weight limits under Section 49-1001 (1)(2) & (9), Idaho Code. ~~(10-2-89)~~(7-1-13)T

i. Violating weight limits for single, tandem, tridem, quad, or other type axle groups by more than fifteen percent (15%). (7-1-13)T

ii. Violating gross or bridge weight allowances by more than seven percent (7%). (7-1-13)T

~~d. The permittee is apprehended during transportation of a manufactured home or office trailer on it's~~

~~own axles when wind velocity exceeds twenty (20) miles per hour. (8-25-94)~~

~~e. The permittee is apprehended while transporting a manufactured home, modular building or office trailer not in compliance with registration or property tax requirements of Section 49-422, Idaho Code. (8-25-94)~~

~~f. The permittee, in the case of manufactured home, modular building and office trailer transporters or extra-length operators, is not able to provide proof of insurance. Reissuance of the permit may be accomplished by providing satisfactory evidence of insurance to the P.O.E. or other enforcement officer. (8-25-94)~~

~~g. The operator of an extra-length vehicle combination demonstrates non-compliance with Rule 39.03.22, Subsection 200.05, resulting in a spin out or other loss of traction or control during hazardous road and weather conditions. (12-26-90)~~

~~h. The permitted extra-length vehicle combination is apprehended on state highways not designated for extra-length operations. (10-2-89)~~

**02. Confiscation of Permits Revocation Process.** ~~When a special permit has become invalid because of non-compliance with the limits and provisions on the face of the permit, the apprehending officer may confiscate the permit, and if so, must forward it to the Vehicle Size and Weight Specialist. The movement shall not proceed until a new permit is obtained unless directed by the officer in order to protect the public interest. An exception will allow the officer, in the case of non-compliance with weight distribution as established on the permit, to honor the permit if the permittee can make loading adjustments to satisfy the requirements of the permit. A copy of the judgment of conviction from the court and the overlegal permit authorizing operation must be provided to the Permit Office by enforcement personnel. Paperwork will be reviewed for compliance with the provisions of this rule and, if met, notification will be sent to the company informing them of the pending revocation that will occur within ten (10) days of the letter being issued. (8-25-94)(7-1-13)T~~

**03. Disqualification Periods.** When a permit has become invalid, the vehicle identified on the ~~confiscated~~ invalidated permit may be disqualified for reapplication for permit for a period of thirty (30) days after the first violation, for a period of six (6) months after the second violation, and for a period of one (1) year after the third violation. ~~(10-2-89)~~(7-1-13)T

**04. Penalties.** In addition to revocation of permits as authorized in this rule, the permittee shall be subject to all applicable penalties provided by law with regard to the provisions violated. (8-25-94)

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0000-1304

### NOTICE OF COMMENT PERIOD AND PUBLIC HEARING ON THE PROPOSED SUBMITTAL FOR DELEGATION OF REGULATION 40 CFR PART 62, SUBPART HHH

**AUTHORITY:** In accordance with Sections 111(d) and 129 of the Clean Air Act and 40 CFR Part 60, Subpart B, notice is hereby given that this agency proposes to hold a public hearing on a proposed submittal for delegation of regulation 40 CFR Part 62, Subpart HHH.

**PUBLIC HEARING SCHEDULE:** A public hearing on the proposed submittal will be held as follows:

**Monday, September 9, 2013, 3:00 p.m.**

**Department of Environmental Quality  
Conference Room A  
1410 N. Hilton, Boise, Idaho**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

**DESCRIPTIVE SUMMARY:** DEQ hereby gives notice that it intends to hold a public hearing regarding Idaho's request for continued EPA approval to regulate hospital/medical/infectious waste incinerators. Under Proposed Rule Docket No. 58-0101-1301, DEQ proposes to incorporate by reference 40 CFR Part 62, Subpart HHH, "Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or Before December 1, 2008," into IDAPA 58.01.01, Rules for the Control of Air Pollution in Idaho. This proposed revision allows DEQ to maintain EPA approval to regulate these sources.

**AVAILABILITY OF THE PROPOSED RULE AND PROPOSED FEDERAL PLAN DELEGATION REQUEST:** By August 7, 2013, a copy of Proposed Rule Docket No. 58-0101-1301 will be available in the Idaho Administrative Bulletin, August 7, 2013, Vol. 13-8, or at [www.deq.idaho.gov/58-0101-1301](http://www.deq.idaho.gov/58-0101-1301). By August 7, 2013, the proposed Federal Plan Delegation Request for the Control of Air Emissions from Hospital/Medical/Infectious Waste Incinerators Constructed on or Before December 1, 2008 (Federal Plan Delegation Request) can be obtained at [www.deq.idaho.gov/58-0101-1301](http://www.deq.idaho.gov/58-0101-1301) or by contacting the undersigned.

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning the proposed submittal, contact Tiffany Floyd at (208)373-0440, [tiffany.floyd@deq.idaho.gov](mailto:tiffany.floyd@deq.idaho.gov).

Anyone may submit written comments by mail, fax or email at the address below regarding this proposed submittal. DEQ will consider all written comments received by the undersigned on or before September 9, 2013.

Dated this 9th day of July, 2013.  
Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton  
Boise, Idaho 83706-1255  
(208) 373-0418/Fax No. (208) 373-0481  
[paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov)

# IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

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

DOCKET NO. 58-0101-1301

### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates citations to the federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act. It also updates citations to other federal regulations necessary to retain state primacy of Clean Air Act programs.

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

**Monday, September 9, 2013, 3:00 p.m.**

**Department of Environmental Quality  
Conference Room A  
1410 N. Hilton, Boise, Idaho**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

**DESCRIPTIVE SUMMARY:** This rulemaking is necessary to ensure that the Rules for the Control of Air Pollution in Idaho are consistent with federal regulations. This proposed rule updates citations to federal regulations incorporated by reference at Section 107 to include those revised as of July 1, 2013.

Subsection 107.03.c. has been revised to ensure the incorporation by reference of 40 CFR Part 52 is aligned with Subsection 107.01. The added text underscores Idaho's intent to incorporate by reference federal regulations that apply to Idaho, not the rules and plans developed by other states that have been federally approved for the purposes of those states' implementation plans.

In addition, Sections 861 and 862, regarding hospital/medical/infectious waste incinerators, have been deleted to remove requirements that have been superseded by recent updates to 40 CFR Parts 60 and 62. 40 CFR Part 60 and 40 CFR Part 62, Subpart HHH, are incorporated by reference into the proposed rule at Section 107. These changes allow DEQ to maintain EPA approval to regulate these sources. To ensure compliance with the statutory provisions regarding medical waste combustors, Section 39-128, Idaho Code, has been incorporated by reference into the proposed rule at Section 107.

DEQ intends to hold a public hearing regarding Idaho's request for continued EPA approval to regulate hospital/medical/infectious waste incinerators. The Notice of Public Comment Period and Public Hearing on the Proposed Submittal for Delegation of Regulation 40 CFR Part 62, Subpart HHH, is published under Docket No. 58-0000-1304 in the Idaho Administrative Bulletin, August 7, 2013, Vol. 13-8, and is available at [www.deq.idaho.gov/58-0101-1301](http://www.deq.idaho.gov/58-0101-1301) or by contacting the undersigned.

Members of the regulated community who may be subject to Idaho's air quality rules, special interest groups, public officials, and members of the public who have an interest in the regulation of air emissions from sources in Idaho may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2013 for adoption of a pending rule. The rule is expected to be final and effective upon adjournment of the 2014 legislative session if adopted by the Board and approved by the Legislature. DEQ will submit the final rule to EPA for approval.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary:

Incorporation by reference is necessary to ensure that the state rules are consistent with federal regulations. Information for obtaining a copy of the federal regulations is included in the rule.

**NEGOTIATED RULEMAKING:** Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible due to the simple nature of this rulemaking and because DEQ has no discretion with respect to adopting the federal regulations that are necessary for EPA approval of Idaho's Title V Operating Permit Program. Whenever possible, DEQ incorporates federal regulations by reference to ensure that the state rules are consistent with federal regulations.

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

**FISCAL IMPACT STATEMENT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this rulemaking, contact Tiffany Floyd at [tiffany.floyd@deq.idaho.gov](mailto:tiffany.floyd@deq.idaho.gov) or (208) 373-0440.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 9, 2013.

DATED this 9th day of July, 2013.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton  
Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
[paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov)

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**THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 58-0101-1301**

**107. INCORPORATIONS BY REFERENCE.**

**01. General.** Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term "documents" includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-1-94)

**02. Availability of Referenced Material.** Copies of the documents incorporated by reference into these rules are available at the following locations: (5-1-94)

- a. All federal publications: U.S. Government Printing Office at [www.gpoaccess.gov/ecfr](http://www.gpoaccess.gov/ecfr); ~~and~~ (4-7-11)( )
- b. [Statutes of the state of Idaho: http://legislature.idaho.gov/idstat/TOC/IDStatutesTOC.htm](http://legislature.idaho.gov/idstat/TOC/IDStatutesTOC.htm); and ( )
- ~~b.c.~~ All documents herein incorporated by reference: (7-1-97)
0502. i. Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373- (7-1-97)
- ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. (7-1-97)
- 03. Documents Incorporated by Reference.** The following documents are incorporated by reference into these rules: (5-1-94)
- a. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, 40 CFR Part 51 revised as of July 1, 201~~2~~<sup>3</sup>. The following portions of 40 CFR Part 51 are expressly excluded from any incorporation by reference into these rules: (4-4-13)( )
- i. All sections included in 40 CFR Part 51, Subpart P, Protection of Visibility, except that 40 CFR 51.301, 51.304(a), 51.307, and 51.308 are incorporated by reference into these rules; and (3-30-07)
- ii. Appendix Y to Part 51, Guidelines for BART Determinations Under the Regional Haze Rule. (3-30-07)
- b. National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 201~~2~~<sup>3</sup>. (4-4-13)( )
- c. Approval and Promulgation of Implementation Plans, 40 CFR Part 52, [Subparts A and N and Appendices D and E](#), revised as of July 1, 201~~2~~<sup>3</sup>. (4-4-13)( )
- 201~~2~~<sup>3</sup>. d. Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of July 1, (4-4-13)( )
- e. Ambient Air Quality Surveillance, 40 CFR Part 58, revised as of July 1, 201~~2~~<sup>3</sup>. (4-4-13)( )
- f. Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of July 1, 201~~2~~<sup>3</sup>. (4-4-13)( )
- 201~~2~~<sup>3</sup>. g. National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of July 1, (4-4-13)( )
- [h. Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or Before December 1, 2008, 40 CFR Part 62, Subpart HHH, revised as of July 1, 2013.](#) ( )
- ~~h.i.~~ National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of July 1, 201~~2~~<sup>3</sup>. (4-4-13)( )
- ~~h.j.~~ Compliance Assurance Monitoring, 40 CFR Part 64, revised as of July 1, 201~~2~~<sup>3</sup>. (4-4-13)( )
- ~~h.k.~~ State Operating Permit Programs, 40 CFR Part 70, revised as of July 1, 201~~2~~<sup>3</sup>. (4-4-13)( )
- ~~h.l.~~ Permits, 40 CFR Part 72, revised as of July 1, 201~~2~~<sup>3</sup>. (4-4-13)( )
- ~~h.m.~~ Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 201~~2~~<sup>3</sup>. (4-4-13)( )

- ~~1.~~ Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 2012~~3~~. (4-4-13)( )
- ~~2.~~ Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). (3-19-99)
- ~~3.~~ Medical Waste Combustors, Section 39-128, Idaho Code (1992). ( )
- ~~4.~~ Determining Conformity of Federal Actions to State or Federal Implementation Plans: Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, 40 CFR Part 93, Subpart A, Sections 93.100 through 93.129, revised as of July 1, 2012~~3~~, except that Sections 93.102(c), 93.104(d), 93.104(e)(2), 93.105, 93.109(c)-(f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1), and 93.124(b) are expressly omitted from the incorporation by reference. (4-4-13)( )

(BREAK IN CONTINUITY OF SECTIONS)

~~861. STANDARDS OF PERFORMANCE FOR HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS THAT COMMENCED CONSTRUCTION AFTER JUNE 20, 1996, OR FOR WHICH MODIFICATION IS COMMENCED AFTER MARCH 16, 1998.~~

- ~~01. Applicability. All owners or operators of each individual hospital/medical/infectious waste incinerator for which construction is commenced after June 20, 1996 or for which modification is commenced after March 16, 1998 are subject to Section 861 except as noted in Subsection 861.02. (4-5-00)~~
- ~~02. Exemptions. (4-5-00)~~
  - ~~a. A combustor is not subject to Section 861 during periods when only pathological waste, low-level radioactive waste, and/or chemotherapeutic waste is burned, provided the owner or operator of the combustor: (4-5-00)~~
    - ~~i. Notifies the Department of an exemption claim; and (4-5-00)~~
    - ~~ii. Keeps records on a calendar quarter basis of the periods of time when only pathological waste, low-level radioactive waste and/or chemotherapeutic waste is burned. (4-5-00)~~
  - ~~b. Any co-fired combustor is not subject to Section 861 if the owner or operator of the co-fired combustor: (4-5-00)~~
    - ~~i. Notifies the Department of an exemption claim; (4-5-00)~~
    - ~~ii. Provides an estimate of the relative amounts of hospital waste, medical/infectious waste, and other fuels and wastes to be combusted; and (4-5-00)~~
    - ~~iii. Keeps records on a calendar quarter basis of the weight of hospital waste and medical/infectious waste combusted, and the weight of all other fuels and wastes combusted at the co-fired combustor. (4-5-00)~~
  - ~~c. Any combustor required to have a permit under Section 3005 of the Solid Waste Disposal Act is not subject to Section 861; (4-5-00)~~
  - ~~d. Any combustor which meets the applicability requirements under 40 CFR Part 60, Subparts Cb, Ea or Eb (relates to certain municipal waste combustors) is not subject to Section 861; (4-5-00)~~
  - ~~e. Any pyrolysis unit is not subject to Section 861; (4-5-00)~~

- ~~f. Cement kilns firing hospital waste and/or medical/infectious waste are not subject to Section 861; (4-5-00)~~
- ~~g. Physical or operational changes made to an existing hospital/medical/infectious waste incinerator solely for the purpose of complying with emission guidelines under 40 CFR Part 60, Subpart Cc are not considered a modification and do not result in an existing hospital/medical/infectious waste incinerator becoming subject to Section 861; (4-5-00)~~
- ~~h. Affected facilities subject to Section 861 are not subject to the requirements of 40 CFR Part 64. (4-5-00)~~
- ~~03. Definitions. As used in Section 861, definitions shall have the meaning given in 40 CFR Part 60 including, but not limited to: (4-5-00)~~
- ~~a. "Chemotherapeutic waste" means waste material resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells. (4-5-00)~~
- ~~b. "Co-fired combustor" means a unit combusting hospital waste and/or medical/infectious waste with other fuels or wastes (e.g., coal, municipal solid waste) and subject to an enforceable requirement limiting the unit to combusting a fuel-feed stream, ten percent (10%) or less of the weight of which is comprised, in aggregate, of hospital waste and medical/infectious waste as measured on a calendar quarter basis. For purposes of this definition, pathological waste, chemotherapeutic waste, and low-level radioactive waste are considered "other" wastes when calculating the percentage of hospital waste and medical/infectious waste combusted. (4-5-00)~~
- ~~c. "Hospital" means any facility which has an organized medical staff, maintains at least six (6) inpatient beds, and where the primary function of the institution is to provide diagnostic and therapeutic patient services and continuous nursing care primarily to human inpatients who are not related and who stay on average in excess of twenty-four (24) hours per admission. This definition does not include facilities maintained for the sole purpose of providing nursing or convalescent care to human patients who generally are not acutely ill but who require continuous medical supervision. (4-5-00)~~
- ~~d. "Hospital/medical/infectious waste incinerator" or HMIWI means any device that combusts any amount of hospital waste and/or medical/infectious waste. (4-5-00)~~
- ~~e. "Hospital waste" means discards generated at a hospital, except unused items returned to the manufacturer. This definition does not include human corpses, remains and anatomical parts intended for interment or cremation. (4-5-00)~~
- ~~f. "Infectious agent" means any organism such as a virus or bacteria that is capable of being communicated by invasion and multiplication in body tissues and capable of causing disease or adverse health impacts in humans. (4-5-00)~~
- ~~g. "Low-level radioactive waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level radioactive waste is not high-level radioactive waste, spent nuclear fuel, or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)). (4-5-00)~~
- ~~h. "Medical/infectious waste" means any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals that is listed in Subsections 861.03.h.i. through 861.03.h.vii. The definition of medical/infectious waste does not include hazardous waste identified or listed under 40 CFR Part 261; household waste as defined in 40 CFR Section 261.4(b)(1); ash from incineration of medical/infectious waste once the incineration process is completed; human corpses, remains, and anatomical parts intended for interment or cremation; and domestic sewage materials identified in 40 CFR Section 261.4(a)(1). (4-5-00)~~
- ~~i. Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial~~

~~laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate and mix cultures. (4-5-00)~~

~~ii. Human pathological waste, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers. (4-5-00)~~

~~iii. Human blood and blood products including: (4-5-00)~~

~~(1) Liquid waste human blood; (4-5-00)~~

~~(2) Products of blood; (4-5-00)~~

~~(3) Items saturated and/or dripping with human blood; or (4-5-00)~~

~~(4) Items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also included in this category. (4-5-00)~~

~~iv. Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips. (4-5-00)~~

~~v. Animal waste including contaminated animal carcasses, body parts and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals. (4-5-00)~~

~~vi. Isolation wastes including biological waste and discarded materials contaminated with blood, excretions, exudates or secretions from humans who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases. (4-5-00)~~

~~vii. Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes and scalpel blades. (4-5-00)~~

~~i. "Modification or modified hospital/medical/infectious waste incinerator" means any change to a hospital/medical/infectious waste incinerator unit after July 2, 1999. (4-5-00)~~

~~(1) The cumulative costs of the modifications, over the life of the unit, exceed fifty percent (50%) of the original cost of the construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs; or (4-5-00)~~

~~(2) The change involves a physical change or change in the method of operation of the unit which increases the amount of any air pollutant emitted by the unit for which standards have been established under Sections 129 or 111 of the Clean Air Act. (4-5-00)~~

~~j. "Pathological waste" means waste material consisting of only human or animal remains, anatomical parts, and/or tissue, the bags/containers used to collect and transport the waste material and animal bedding (if applicable); (4-5-00)~~

~~k. "Pyrolysis" means the endothermic gasification of hospital waste and/or medical/infectious waste using external energy. (4-5-00)~~

~~**04- Requirements.** The following requirements apply to all owners or operators of HMIWI subject to Section 861. (4-5-00)~~

~~a. All owners or operators of hospital/medical/infectious waste incinerators subject to Section 861 must comply with 40 CFR Part 60, Subpart Ee as incorporated by reference into these rules at Section 107. Where "Administrator" or "EPA" appears in 40 CFR Part 60, "Department" shall be substituted, except in any section of 40 CFR Part 60 for which a federal rule or delegation specifically indicates that authority will not be delegated to the state. (4-5-00)~~

~~b. Beginning September 15, 2000 or on the effective date of an EPA approved operating permit program under Clean Air Act Title V and the implementing regulations under 40 CFR Part 70, whichever date is later, affected facilities shall operate pursuant to a permit issued under the EPA approved state operating permit program. (4-5-00)~~

~~e. All owners or operators of hospital/medical/infectious waste incinerators subject to Section 861 must comply with provisions of Section 39-128, Idaho Code. (3-15-02)~~

~~**862. EMISSION GUIDELINES FOR HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS THAT COMMENCED CONSTRUCTION BEFORE JUNE 20, 1996.**~~

~~**01. Applicability.** All owners or operators of each individual hospital/medical/infectious waste incinerator for which construction is commenced on or before June 20, 1996, are subject to Section 862 except as noted in Subsection 862.02. (4-5-00)~~

~~**02. Exemptions.** (4-5-00)~~

~~a. A combustor is not subject to Section 862 during periods when only pathological waste, low level radioactive waste, and/or chemotherapeutic waste is burned, provided the owner or operator of the combustor: (4-5-00)~~

~~i. Notifies the Department of an exemption claim; and (4-5-00)~~

~~ii. Keeps records on a calendar quarter basis of the periods of time when only pathological waste, low level radioactive waste and/or chemotherapeutic waste is burned. (4-5-00)~~

~~b. Any co-fired combustor is not subject to Section 862 if the owner or operator of the co-fired combustor: (4-5-00)~~

~~i. Notifies the Department of an exemption claim; (4-5-00)~~

~~ii. Provides an estimate of the relative amounts of hospital waste, medical/infectious waste, and other fuels and wastes to be combusted; and (4-5-00)~~

~~iii. Keeps records on a calendar quarter basis of the weight of hospital waste and medical/infectious waste combusted, and the weight of all other fuels and wastes combusted at the co-fired combustor. (4-5-00)~~

~~e. Any combustor required to have a permit under Section 3005 of the Solid Waste Disposal Act is not subject to Section 862. (4-5-00)~~

~~d. Any combustor which meets the applicability requirements under 40 CFR Part 60, Subparts Cb, Ea or Eb (relates to certain municipal waste combustors) is not subject to Section 862. (4-5-00)~~

~~e. Any pyrolysis unit is not subject to Section 862. (4-5-00)~~

~~f. Cement kilns firing hospital waste and/or medical/infectious waste are not subject to Section 862. (4-5-00)~~

~~g. Physical or operational changes made to an existing hospital/medical/infectious waste incinerator solely for the purpose of complying with emission guidelines under 40 CFR Part 60, Subpart Ce are not considered a~~

~~modification and do not result in an existing hospital/medical/infectious waste incinerator becoming subject to Section 862.~~ (4-5-00)

~~h. Affected facilities subject to Section 862 are not subject to the requirements of 40 CFR Part 64.~~ (4-5-00)

~~03. Definitions. As used in Section 862, definitions shall have the meaning given in 40 CFR Part 60 including, but not limited to:~~ (4-5-00)

~~a. "Chemotherapeutic waste" means waste material resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells.~~ (4-5-00)

~~b. "Co-fired combustor" means a unit combusting hospital waste and/or medical/infectious waste with other fuels or wastes (e.g., coal, municipal solid waste) and subject to an enforceable requirement limiting the unit to combusting a fuel feed stream, ten percent (10%) or less of the weight of which is comprised, in aggregate, of hospital waste and medical/infectious waste as measured on a calendar quarter basis. For purposes of this definition, pathological waste, chemotherapeutic waste, and low level radioactive waste are considered "other" wastes when calculating the percentage of hospital waste and medical/infectious waste combusted.~~ (4-5-00)

~~e. "Hospital" means any facility which has an organized medical staff, maintains at least six (6) inpatient beds, and where the primary function of the institution is to provide diagnostic and therapeutic patient services and continuous nursing care primarily to human inpatients who are not related and who stay on average in excess of twenty four (24) hours per admission. This definition does not include facilities maintained for the sole purpose of providing nursing or convalescent care to human patients who generally are not acutely ill but who require continuous medical supervision.~~ (4-5-00)

~~d. "Hospital/medical/infectious waste incinerator" or HMIWI means any device that combusts any amount of hospital waste and/or medical/infectious waste.~~ (4-5-00)

~~e. "Hospital waste" means discards generated at a hospital, except unused items returned to the manufacturer. This definition does not include human corpses, remains and anatomical parts intended for interment or cremation.~~ (4-5-00)

~~f. "Infectious agent" means any organism such as a virus or bacteria that is capable of being communicated by invasion and multiplication in body tissues and capable of causing disease or adverse health impacts in humans.~~ (4-5-00)

~~g. "Large HMIWI," except as provided in Subsections 862.03.g.iv.(1) and 862.03.g.iv.(2), means:~~ (4-5-00)

~~i. A HMIWI whose maximum design waste burning capacity is more than five hundred (500) pounds per hour; or~~ (4-5-00)

~~ii. A continuous or intermittent HMIWI whose maximum charge rate is more than five hundred (500) pounds per hour; or~~ (4-5-00)

~~iii. A batch HMIWI whose maximum charge rate is more than four thousand (4,000) pounds per day.~~ (4-5-00)

~~iv. The following are not large HMIWI:~~ (4-5-00)

~~(1) A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to five hundred (500) pounds per hour; or~~ (4-5-00)

~~(2) A batch HMIWI whose maximum charge rate is less than or equal to four thousand (4,000) pounds per day.~~ (4-5-00)

~~h. “Low-level radioactive waste” means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level radioactive waste is not high-level radioactive waste, spent nuclear fuel, or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)). (4-5-00)~~

~~i. “Medical/infectious waste” means any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals that is listed in Subsections 862.03.i.i. through 862.03.i.vii. The definition of medical/infectious waste does not include hazardous waste identified or listed under 40 CFR Part 261; household waste as defined in 40 CFR Section 261.4(b)(1); ash from incineration of medical/infectious waste once the incineration process is completed; human corpses, remains, and anatomical parts intended for interment or cremation; and domestic sewage materials identified in 40 CFR Section 261.4(a)(1). (4-5-00)~~

~~i. Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate and mix cultures; (4-5-00)~~

~~ii. Human pathological waste, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers. (4-5-00)~~

~~iii. Human blood and blood products including: (4-5-00)~~

~~(1) Liquid waste human blood; (4-5-00)~~

~~(2) Products of blood; (4-5-00)~~

~~(3) Items saturated and/or dripping with human blood; or (4-5-00)~~

~~(4) Items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also included in this category. (4-5-00)~~

~~iv. Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips. (4-5-00)~~

~~v. Animal waste including contaminated animal carcasses, body parts and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals. (4-5-00)~~

~~vi. Isolation wastes including biological waste and discarded materials contaminated with blood, excretions, exudates or secretions from humans who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases. (4-5-00)~~

~~vii. Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes and scalpel blades. (4-5-00)~~

~~j. “Medium HMIWI”: (4-5-00)~~

~~i. Except as provided in Subsection 862.03.j.ii., medium HMIWI means: (4-5-00)~~

~~(1) A HMIWI whose maximum design waste burning capacity is more than two hundred (200) pounds~~

- ~~per hour but less than or equal to five hundred (500) pounds per hour; or (4-5-00)~~
- ~~(2) A continuous or intermittent HMIWI whose maximum charge rate is more than two hundred (200) pounds per hour but less than or equal to five hundred (500) pounds per hour; or (4-5-00)~~
- ~~(3) A batch HMIWI whose maximum charge rate is more than one thousand six hundred (1,600) pounds per day but less than or equal to four thousand (4,000) pounds per day. (4-5-00)~~
- ~~ii. The following are not medium HMIWI: (4-5-00)~~
- ~~(1) A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to two hundred (200) pounds per hour or more than five hundred (500) pounds per hour; or (4-5-00)~~
- ~~(2) A batch HMIWI whose maximum charge rate is more than four thousand (4,000) pounds per day or less than or equal to one thousand six hundred (1,600) pounds per day. (4-5-00)~~
- ~~k. "Modification or modified hospital/medical/infectious waste incinerator" means any change to a HMIWI unit after July 2, 1999: (4-5-00)~~
- ~~i. The cumulative costs of the modifications, over the life of the unit, exceed fifty percent (50%) of the original cost of the construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs; or (4-5-00)~~
- ~~ii. The change involves a physical change or change in the method of operation of the unit which increases the amount of any air pollutant emitted by the unit for which standards have been established under Sections 129 or 111 of the Clean Air Act. (4-5-00)~~
- ~~l. "Pathological waste" means waste material consisting of only human or animal remains, anatomical parts, and/or tissue, the bags/containers used to collect and transport the waste material and animal bedding (if applicable); (4-5-00)~~
- ~~m. "Pyrolysis" means the endothermic gasification of hospital waste and/or medical/infectious waste using external energy; (4-5-00)~~
- ~~n. "Small HMIWI": (4-5-00)~~
- ~~i. Except as provided in Subsection 862.03.n.ii., small HMIWI means: (4-5-00)~~
- ~~(1) A HMIWI whose maximum design waste burning capacity is less than or equal to two hundred (200) pounds per hour; or (4-5-00)~~
- ~~(2) A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to two hundred (200) pounds per hour; or (4-5-00)~~
- ~~(3) A batch HMIWI whose maximum charge rate is less than or equal to one thousand six hundred (1,600) pounds per day. (4-5-00)~~
- ~~ii. The following are not small HMIWI: (4-5-00)~~
- ~~(1) A continuous or intermittent HMIWI whose maximum charge rate is more than two hundred (200) pounds per hour; or (4-5-00)~~
- ~~(2) A batch HMIWI whose maximum charge rate is more than one thousand six hundred (1,600) pounds per day. (4-5-00)~~
- ~~04. Requirements. The following requirements apply to all owners or operators of HMIWI subject to Section 862: (4-5-00)~~

~~a. Except as provided in Subsection 862.04.b., all owners or operators of HMIWI subject to Section 862 shall comply with the following requirements within one (1) year after EPA approval of the State Plan: (4-5-00)~~

- ~~i. Emission limits: (4-5-00)~~
- ~~(1) Small HMIWI: (4-5-00)~~
- ~~(a) Particulate matter: One hundred fifteen (115) milligrams per dry standard cubic meter (mg/dsem): (4-5-00)~~
- ~~(b) Carbon monoxide: Forty (40) parts per million by volume (ppm): (4-5-00)~~
- ~~(c) Dioxins/furans: One hundred twenty five (125) nanograms per dry standard cubic meter (ng/dsem): (4-5-00)~~
- ~~(d) Hydrogen chloride: One hundred (100) ppm or ninety three percent (93%) reduction. (4-5-00)~~
- ~~(e) Sulfur dioxide: Fifty five (55) ppm. (4-5-00)~~
- ~~(f) Nitrogen oxides: Two hundred fifty (250) ppm. (4-5-00)~~
- ~~(g) Lead: One point two (1.2) mg/dsem or seventy percent (70%) reduction. (4-5-00)~~
- ~~(h) Cadmium: Point sixteen (0.16) mg/dsem or sixty five percent (65%) reduction. (4-5-00)~~
- ~~(i) Mercury: Point fifty five (0.55) mg/dsem or eighty five percent (85%) reduction. (4-5-00)~~
- ~~(2) Medium HMIWI: (4-5-00)~~
- ~~(a) Particulate matter: Sixty nine (69) mg/dsem. (4-5-00)~~
- ~~(b) Carbon monoxide: Forty (40) ppm. (4-5-00)~~
- ~~(c) Dioxins/furans: One hundred twenty five (125) ng/dsem. (4-5-00)~~
- ~~(d) Hydrogen chloride: One hundred (100) ppm or ninety three percent (93%) reduction. (4-5-00)~~
- ~~(e) Sulfur dioxide: Fifty five (55) ppm. (4-5-00)~~
- ~~(f) Nitrogen oxides: Two hundred fifty (250) ppm. (4-5-00)~~
- ~~(g) Lead: One point two (1.2) mg/dsem or seventy percent (70%) reduction. (4-5-00)~~
- ~~(h) Cadmium: Point sixteen (0.16) mg/dsem or sixty five (65%) reduction. (4-5-00)~~
- ~~(i) Mercury: Point fifty five (0.55) mg/dsem or eighty five percent (85%) reduction. (4-5-00)~~
- ~~(3) Large HMIWI: (4-5-00)~~
- ~~(a) Particulate matter: Thirty four (34) mg/dsem. (4-5-00)~~
- ~~(b) Carbon monoxide: Forty (40) ppm. (4-5-00)~~
- ~~(c) Dioxins/furans: One hundred twenty five (125) ng/dsem; (4-5-00)~~
- ~~(d) Hydrogen chloride: One hundred (100) ppm or ninety three percent (93%) reduction. (4-5-00)~~

- ~~(e) Sulfur dioxide: Fifty five (55) ppm. (4-5-00)~~
- ~~(f) Nitrogen oxides: Two hundred fifty (250) ppm. (4-5-00)~~
- ~~(g) Lead: One point two (1.2) mg/dsem or seventy percent (70%) reduction. (4-5-00)~~
- ~~(h) Cadmium: Point sixteen (0.16) mg/dsem or sixty five percent (65%) reduction. (4-5-00)~~
- ~~(i) Mercury: Point fifty five (0.55) mg/dsem or eighty five (85%) reduction. (4-5-00)~~
- ~~ii. Stack opacity requirements as provided in 40 CFR Section 60.52c(b) of Subpart Ee. (4-5-00)~~
- ~~iii. Operator training and qualification requirements as provided in 40 CFR Section 60.53e of Subpart Ee. (4-5-00)~~
- ~~iv. Waste management plan as provided in 40 CFR Section 60.55e of Subpart Ee. (4-5-00)~~
- ~~v. Compliance and performance testing as provided in 40 CFR Section 60.56e of Subpart Ee excluding the fugitive emissions testing requirements under Section 60.56e(b)(12) and (c)(3) of Subpart Ee. (4-5-00)~~
- ~~vi. Monitoring requirements as provided in 40 CFR Section 60.57e of Subpart Ee. (4-5-00)~~
- ~~vii. Reporting and recordkeeping requirements as provided in 40 CFR Section 60.58e(b) (f) of Subpart Ee excluding fugitive emissions under Section 60.58e(b)(2)(ii) and siting under Section 60.58e(b)(7). (4-5-00)~~
- ~~viii. Permit requirements. Beginning September 15, 2000 or on the effective date of an EPA approved operating permit program under Clean Air Act title V and the implementing regulations under 40 CFR Part 70, whichever date is later, affected facilities shall operate pursuant to a permit issued under the EPA approved state operating permit program. (4-5-00)~~
- ~~**b.** All owners or operators of small HMIWI that are located more than fifty (50) miles from the boundary of the nearest Standard Metropolitan Statistical Area and which burn less than two thousand (2,000) pounds per week of hospital/medical/infectious waste, shall comply with the following requirements within one (1) year after EPA approval of the State plan in lieu of the requirements in Subsection 862.04.a.:~~
  - ~~i. Emission limits:~~
    - ~~(1) Particulate matter: One hundred ninety seven (197) mg/dsem. (4-5-00)~~
    - ~~(2) Carbon monoxide: Forty (40) ppm. (4-5-00)~~
    - ~~(3) Dioxins/furans: Eight hundred (800) ng/dsem. (4-5-00)~~
    - ~~(4) Hydrogen chloride: Three thousand one hundred (3,100) ppm. (4-5-00)~~
    - ~~(5) Sulfur dioxide: Fifty five (55) ppm. (4-5-00)~~
    - ~~(6) Nitrogen oxides: Two hundred fifty (250) ppm. (4-5-00)~~
    - ~~(7) Lead: Ten (10) mg/dsem. (4-5-00)~~
    - ~~(8) Cadmium: Four (4) mg/dsem. (4-5-00)~~
    - ~~(9) Mercury: Seven point five (7.5) mg/dsem. (4-5-00)~~
    - ~~ii. Stack opacity requirements as provided in 40 CFR Section 60.52c(b) of Subpart Ee. (4-5-00)~~

- ~~iii. Initial equipment inspection which, at a minimum includes the following: (4-5-00)~~
- ~~(1) Inspect all burners, pilot assemblies, and pilot sensing devices for proper operation; clean pilot flame sensor, as necessary; (4-5-00)~~
- ~~(2) Ensure proper adjustment of primary and secondary chamber combustion air, and adjust as necessary; (4-5-00)~~
- ~~(3) Inspect hinges and door latches, and lubricate as necessary; (4-5-00)~~
- ~~(4) Inspect dampers, fans, and blowers for proper operation; (4-5-00)~~
- ~~(5) Inspect HMIWI door and door gaskets for proper sealing; (4-5-00)~~
- ~~(6) Inspect motors for proper operation; (4-5-00)~~
- ~~(7) Inspect primary chamber refractory lining; clean and repair/replace lining as necessary; (4-5-00)~~
- ~~(8) Inspect incinerator shell for corrosion and/or hot spots; (4-5-00)~~
- ~~(9) Inspect secondary/tertiary chamber and stack, clean as necessary; (4-5-00)~~
- ~~(10) Inspect mechanical loader, including limit switches, for proper operation, if applicable; (4-5-00)~~
- ~~(11) Visually inspect waste bed (grates), and repair/seal, as appropriate; (4-5-00)~~
- ~~(12) For the burn cycle that follows the inspection, document that the incinerator is operating properly and make any necessary adjustments; (4-5-00)~~
- ~~(13) Inspect air pollution control device(s) for proper operation, if applicable; (4-5-00)~~
- ~~(14) Inspect waste heat boiler systems to ensure proper operation, if applicable; (4-5-00)~~
- ~~(15) Inspect bypass stack components; (4-5-00)~~
- ~~(16) Ensure proper calibration of thermocouples, sorbent feed systems and any other monitoring equipment; and (4-5-00)~~
- ~~(17) Generally observe that the equipment is maintained in good operating condition. (4-5-00)~~
- ~~iv. Equipment repairs. Within ten (10) operating days following an equipment inspection all necessary repairs shall be completed unless the owner or operator obtains written approval from the Department establishing a date whereby all necessary repairs of the designated facility shall be completed. (4-5-00)~~
- ~~v. Equipment inspection. Equipment inspections shall be conducted annually (no more than twelve (12) months following the previous annual equipment inspection), as outlined in Subsection 862.04.b.iii. and 862.04.b.iv. (4-5-00)~~
- ~~vi. Compliance and performance testing requirements as follows: (4-5-00)~~
- ~~(1) Compliance and performance testing requirements as provided in 40 CFR Section 60.56c(a)(b)(1) through (b)(9), (b)(11) (Hg only), and (c)(1) of Subpart Ec. The two thousand (2,000) lb/week limitation under Subsection 862.04.b. does not apply during performance tests. (4-5-00)~~
- ~~(2) Establish maximum charge rate and minimum secondary chamber temperature as site specific operating parameters during the initial performance test to determine compliance with applicable emission limits.~~

(4-5-00)

~~(3) Following the date on which the initial performance test is completed or is required to be completed under 40 CFR Section 60.8, whichever date comes first, ensure that the designated facility does not operate above the maximum charge rate or below the minimum secondary chamber temperature measured as three (3) hour rolling averages (calculated each hour as the average of the previous three (3) operating hours) at all times except during periods of startup, shutdown and malfunction. Operating parameter limits do not apply during performance tests. Operation above the maximum charge rate or below the minimum secondary chamber temperature shall constitute a violation of the established operating parameter(s).~~ (4-5-00)

~~(4) Except as provided in Subsection 862.04.b.vi.(5), operation of the designated facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a three (3) hour rolling average) simultaneously shall constitute a violation of the PM, CO, and dioxin/furan emission limits;~~(4-5-00)

~~(5) The owner or operator of a designated facility may conduct a repeat performance test within thirty (30) days of violation of applicable operating parameter(s) to demonstrate that the designated facility is not in violation of the applicable emission limit(s). Repeat performance tests conducted pursuant to this paragraph must be conducted using the identical operating parameters that indicated a violation under Subsection 862.04.b.vi.(4).~~ (4-5-00)

~~vii. Monitoring requirements as follows:~~ (4-5-00)

~~(1) Install, calibrate (to manufacturers' specifications), maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation.~~ (4-5-00)

~~(2) Install, calibrate (to manufacturers' specifications), maintain, and operate a device which automatically measures and records the date, time, and weight of each charge fed into the HMIWI.~~ (4-5-00)

~~(3) The owner or operator of a designated facility shall obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for seventy five percent (75%) of the operating hours per day and for ninety percent (90%) of the operating hours per calendar quarter that the designated facility is combusting hospital waste and/or medical/infectious waste.~~ (4-5-00)

~~viii. Reporting and recordkeeping requirements as follows:~~ (4-5-00)

~~(1) Maintain records of the annual equipment inspections, any required maintenance, and any repairs not completed within ten (10) days of an inspection or the timeframe established by the Department; and~~ (4-5-00)

~~(2) Submit an annual report containing information recorded under Subsection 862.04.b.vii.(1) no later than sixty (60) days following the year in which data were collected. Subsequent reports shall be sent no later than twelve (12) calendar months following the previous report, once the unit is subject to permitting requirements under Title V of the Clean Air Act, the owner or operator must submit these reports semiannually. The report shall be signed by the facilities manager.~~ (4-5-00)

8631. -- 999. (RESERVED)

# IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.02 - WATER QUALITY STANDARDS

DOCKET NO. 58-0102-1301

### NOTICE OF NEGOTIATED RULEMAKING

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

**METHOD OF PARTICIPATION:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the meeting at one of the following locations. The meeting locations will be connected by telephone and web conferencing. For those who cannot participate by attending the meeting, information for submitting written comments is provided at the end of this notice.

**MEETING SCHEDULE:** The negotiated rulemaking meeting will be held as follows. Additional meetings may be scheduled if necessary. For information regarding individual participation by telephone and web conferencing or scheduling of additional meetings, contact the undersigned. Individual requests to participate by telephone and web conferencing must be made by August 22, 2013.

Wednesday, August 28, 2013, 9 a.m. to 12:30 p.m. Mountain Daylight Time		
<b>Department of Environmental Quality, Conference Rooms A &amp; B 1410 N. Hilton, Boise, Idaho</b>	<b>Department of Environmental Quality 444 Hospital Way #300 Pocatello, Idaho</b>	<b>Department of Environmental Quality, 2110 Ironwood Parkway, Coeur d'Alene, Idaho</b>

**PRELIMINARY DRAFT:** By August 14, 2013, a preliminary draft of the rule can be obtained at [www.deq.idaho.gov/58-0102-1301](http://www.deq.idaho.gov/58-0102-1301) or by contacting Paula Wilson at [paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov), (208)373-0418.

**DESCRIPTIVE SUMMARY:** DEQ is initiating this rulemaking docket in response to U.S. Environmental Protection Agency (EPA) disapproval of the water quality standards provision that exempts, from Tier II antidegradation review, those activities or discharges determined to be insignificant (*de minimus* exemption). This provision is set out in IDAPA 58.01.02.052.08.a.

DEQ is also proposing to revise IDAPA 58.01.02.055, which addresses the treatment of water bodies that do not support designated beneficial uses. This section needs to be updated to ensure it is consistent with changes in the Idaho Code and other sections of the water quality standards that have been adopted since the adoption of Section 055. Subsection 055.04, which was adopted in 1997, contains antidegradation provisions which have since been superseded by the antidegradation policy and implementation provisions contained in Section 39-3603, Idaho Code, and IDAPA 58.01.02.051 and 052, which were adopted by the Idaho Board of Environmental Quality (Board) in 2010 and approved by the Idaho Legislature in 2011 (Docket No. 58-0102-1001).

In November 2010, antidegradation implementation procedures were adopted by the Idaho Board of Environmental Quality (Board) and then submitted to the 2011 Idaho Legislature for review (Docket No. 58-0102-1001). Under House Concurrent Resolution 16 (HCR16), the Idaho Legislature rejected certain portions of the rule and approved the remainder of the rule. The 2011 Idaho Legislature also adopted House Bill 153 (HB153) which revised the Idaho Code to include sections addressing the definition of degradation, the treatment of general permits, the identification of Tier II waters, and insignificant discharges or activities (codified at Sections 39-3601, 39-3602, 39-3603, and 39-3623, Idaho Code). The new sections added to Idaho law by HB153 correspond to the portions of the rule rejected by HCR16.

In April 2011, DEQ submitted revisions to its water quality standards administrative rule (Docket No. 58-0102-1001) and corresponding revisions to the Idaho Code to EPA for review and action. In August 2011, EPA approved the revisions as submitted.

In November 2011, the Board adopted Docket No. 58-0102-1103, which included revisions to make the language on implementation of antidegradation procedures in Idaho's water quality standards complete and consistent with changes in state law brought about by the 2011 Legislature's passage of HB153.

On February 14, 2012, Greater Yellowstone Coalition (GYC) brought an action in the U.S. District Court for the District of Idaho (Court) challenging EPA's approval of Idaho's definition of "degradation" of water quality and Idaho's mandatory exemption from review for *de minimus* levels of discharge. The *de minimus* exemption provides for an automatic exemption from Tier II antidegradation review if the additional pollution from a new activity would consume only 10% or less of the "assimilative capacity" of a water body. GYC argued that the *de minimus* exemption allows too much pollution. On April 24, 2013, the Court granted EPA's motion for remand of the *de minimus* issue and gave EPA 90 days to either 1) take a new action on the *de minimus* provision; or 2) inform the Court that it has determined not to take a new action, and to file a cross-motion for summary judgment and brief in support of that motion regarding the *de minimus* provision. The Court will retain jurisdiction to ensure a timely remand process and to allow the parties to challenge any new EPA decision in this case.

On July 23, 2013, EPA disapproved the *de minimus* exemption. The Clean Water Act provides that if the state does not adopt changes in its rule to address the disapproval within 90 days, EPA shall promulgate a standard for the state. Pursuant to this section of the Clean Water Act, EPA may be required to promptly prepare a proposed rule for the state of Idaho. Adoption of this rule docket will avoid EPA promulgation.

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

Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in the Idaho Administrative Bulletin and present the final proposal to the Board of Environmental Quality in May 2014 for adoption of a pending and temporary rule. If adopted by the Board, the temporary rule will become effective on June 4, 2014 and the pending rule will be reviewed by the 2015 Idaho Legislature. Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to comply with deadlines in federal programs and, therefore, avoid federal promulgation of Idaho's water quality standards.

Before this rule docket can become effective, it will be necessary to revise Section 39-3603(2)(c), Idaho Code.

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

For those who cannot participate by attending the scheduled meeting, written comments may be submitted by mail, fax or email at the address below. Written comments on the preliminary draft rule must be received by September 6, 2013. For information regarding submission of written comments on subsequent drafts of the negotiated rule, to receive copies of submitted written comments, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 15th day of July, 2013.

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# LEGAL NOTICE

## Summary of Proposed Rulemakings

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

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

*Deadline for submission of written comments is August 28, 2013, unless otherwise noted.  
Deadline for public hearing requests is August 21, 2013, unless otherwise noted.  
(Temp & Prop) indicates the rule is both Temporary and Proposed.  
(\*PH) indicates that a public hearing has been scheduled.*

#### **IDAPA 02 - DEPARTMENT OF AGRICULTURE PO Box 790 Boise, ID 83701**

**02-0609-1301, Rules Governing Invasive Species.** Add definitions; removes requirement for transport permit for bullfrogs; extends transport permit validity to 5 years for exempt species; creates a method of application for Energy Crop Invasive Species Possession/Production Permits; creates a method of application for Trap Crop Invasive Species Permits; updates scientific and common names and to add hybrids of certain listed invasive species.

**02-0622-1301, Rules Governing Noxious Weeds.** Adds a species of noxious weed and removes the statewide monitor list from rule.

**02-0623-1301, Rules Governing Noxious Weed Free Gravel and Rock Products.** New chapter provides for inspection and certification of gravel as noxious weed free.

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

**08-0105-1301, Idaho Promise Scholarship Program.** Chapter repeal due to consolidation of state run scholarship programs.

**08-0106-1301, Leveraging Education Assistance Partnership Program.** Chapter repeal due to consolidation of state run scholarship programs.

**08-0109-1301, Rules Governing the Gear Up Idaho Scholarship Program.** Clarifies definition of educational costs and when a student may apply for the program, aligns the application date with the timeframe students complete the FAFSA, and removes unnecessary language regarding realignment of funds.

**08-0112-1301, Idaho Minority and "At-Risk" Student Scholarship Program.** Chapter repeal due to consolidation of state run scholarship programs.

**08-0113-1301, Rules Governing the Opportunity Scholarship Program.** Consolidates the majority of the state run scholarship programs to align them with Idaho Code; removes redundant language; clarifies residency for tuition purposes, student eligibility, and academic eligibility, and streamlines the renewal application process.

#### **08-02.02 - Rules Governing Uniformity**

**08-0202-1302, (Temp & Prop)** Clarifies which schools can operate as programs and which schools must seek stand alone accreditation to ensure that all schools and all students are being properly accounted for through accreditation and Idaho's Star Rating system.

**08-0202-1303**, (Temp & Prop) Removes unnecessary barriers to board approval of qualified teacher preparation for those using face-to-face and hybrid teacher preparation alternatives.

**08-0202-1304**, (Temp & Prop) Amends the mathematics in-service and comprehensive literacy course renewal requirements to clarify that only active teachers in the Idaho Public School system are required to fulfill this obligation for recertification.

**08-0202-1305**, Revises and clarifies the Code of Ethics for Idaho Professional Educators.

**08.02.03 - Rules Governing Thoroughness**

**08-0203-1302**, (Temp & Prop) Establishes guidelines for the 8-in-6 Program for high school graduation; establishes criteria for the Master Advancement Program to allow school districts and public charter schools to use mastery exams, and for the Advanced Opportunities Program; clarifies final year math requirement for high school students.

**08-0203-1303**, Adds prohibition against students possessing weapons on campus as part of a district's comprehensive policies and procedures.

**08-0203-1304**, Fee rule outlines process used by Department to review and approve on-line courses and establishes a submission fee charged to providers based on the number of courses offered.

**08-0204-1301, Rules Governing Public Charter Schools.** (Temp & Prop) Clarifies process for new charter school authorizers and the accountability measure requirements for the charter schools.

**08-0301-1301, Rules of the Public Charter School Commission.** Clarifies process for implementation of new accountability measure requirements; removes requirement for an annual programmatic operations audit and student goals attainment report; removes duplicative language contained in the public hearing process.

**IDAPA 11 - IDAHO STATE POLICE  
IDAHO STATE RACING COMMISSION  
700 S. Stratford Dr., Meridian, ID 83642**

**11-0402-1301, Rules Governing Simulcasting.** (Temp & Prop) Implements statute authorizing historical horse race wagering under the pari-mutuel wagering system; establishes licensure, record keeping and equipment requirements; designates terminal locations and access control.

**11-0411-1301, Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses.** (Temp & Prop) Clarifies that a horse that has a pre- or post-race positive drug test will be disqualified and the purse money redistributed if found to be ineligible to have raced.

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

**\*16-0101-1301, Emergency Medical Services (EMS) - Advisory Committee (EMSAC).** (\*PH) Aligns chapter with new "Rules Definitions" chapter that updates definitions to reflect changes in terminology and technology used in emergency situations.

**\*16-0102-1301, Emergency Medical Services (EMS) - Rule Definitions.** (\*PH) New chapter provides definitions for all EMS chapters of rules, as well as the authority, scope, and references to the EMS chapters these rules apply to.

**\*16-0103-1301, Emergency Medical Services (EMS) -- Agency Licensing Requirements.** (\*PH) New chapter establishes EMS Agency general licensure requirements, agency licensing models, and air medical utilization requirements; establishes licensure requirements for personnel and equipment, agency licensure and renewals applications, record retention and management of system data and submission, and references to licensure requirements in other chapters, such as personnel, investigations, and disciplinary actions.

**\*16-0107-1301, Emergency Medical Services (EMS) -- Personnel Licensing Requirements.** (\*PH) Removes the definitions section from rule that are now in IDAPA 16.01.02.

**\*16-0112-1301, Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions.** (\*PH) Removes the definitions section and other obsolete language from rule to align with IDAPA 16.01.02 and 16.01.03.

**\*16-0203-1301, *Emergency Medical Services*.** (\*PH) Aligns chapter with IDAPA 16.01.02 and 16.01.03 by removing agency licensure and air medical utilization requirements and definitions; adds, removes, and updates references to new chapters.

**\*16-0309-1301, *Medicaid Basic Plan Benefits*.** (Temp & Prop) (\*PH) Incorporates the managed care waiver; integrates the following: mental health clinic and psychosocial rehabilitative services, service coordination for adults with severe and persistent mental illness (SPMI), service coordination for children with severe emotional disturbance (SED), and substance use disorder services into behavioral health services; moves all rules related to behavioral health services into this chapter; removes specific service limitations to allow for behavioral health services to be delivered individualized and evidence-based under a managed care structure; adds Department or designee service delivery accountability requirements.

**16-0310-1301, *Medicaid Enhanced Plan Benefits*.** (Temp & Prop) (\*PH) Complies with statutory mandate regarding managed care by implementing a 1915(b) Waiver requiring Medicaid participants to enroll in a statewide prepaid ambulatory health plan (PAHP); moves rules related to behavioral health services into IDAPA 16.03.09, "Medicaid Basic Plan Benefits."

**16-0506-1301, *Criminal History and Background Checks*.** (Temp & Prop) Requires that court appointed guardians and conservators must have a Department CHC and that applicant covers the cost.

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES  
PO Box 700, Boise, ID 83720-0063**

**24.13.01 - *Rules Governing the Physical Therapy License Board***

**24-1301-1301,** Increases the number of patient visits or the amount of time before the supervisor must re-evaluate the patient and the plan of care being provided by a Physical Therapy Assistant.

**24-1301-1302,** Decreases fees for exam administration, application, original license and annual license renewal to reduce the Board's dedicated fund balance.

**IDAPA 33 - IDAHO REAL ESTATE COMMISSION  
575 E. Parkcenter Blvd., Suite 180, Boise ID 83706**

**\*33-0101-1301, *Rules of the Idaho Real Estate Commission*.** (Temp & Prop) (\*PH) Adds Professionalism and Business Success as courses for which licensees may be granted education credit.

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT  
PO Box 7129, Boise ID 83707-1129**

**39-0315-1301, *Rules Governing Interstate Excess Weight Permits*.** (Temp & Prop) Alters the process for designating routes for loads up to 129,000 pounds. Comment by: 10/24/13

**39.03.22, *Rules Governing Overlegal Permits for Extra-Length Vehicle Combinations***

**\*39-0322-1301,** (Temp & Prop) (\*PH) Clarifies that only non-interstate routes will allow weights above 105,500 and up to 129,000 pounds; specifies the operating requirements on designated routes, authorized for up to 129,000 pounds. Comment by: 10/24/13

**\*39-0322-1302,** (\*PH) Provides an administrative process to add designated routes for vehicle combinations up to 129,000 pounds and includes the application, review and analysis, determination, public hearing and appeal processes. Comment by: 10/24/13

**39-0323-1301, *Rules Governing Revocation of Overlegal Permits*.** (Temp & Prop) Specifies the permit violations for which an over legal permit will be revoked and the permit revocation process. Comment by: 10/24/13

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY  
1410 N. Hilton, Boise, ID 83706-1255**

**\*58-0101-1301, *Rules for the Control of Air Pollution In Idaho*.** (\*PH) Updates incorporation by reference to

comply with changes to federal regulations; removes rules regulating hospital/medical/infectious waste incinerators which have been superseded by federal regulations. Comment by: 9/9/13

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

**IDAPA 27 - IDAHO BOARD OF PHARMACY**

*27-0101-1207*, Rules of the Idaho Board of Pharmacy

**IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSON**

*31-0101-1301*, Rules of Procedure of the Idaho Public Utilities Commission

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

*58-0102-1301*, Water Quality Standards

**NOTICE OF PUBLIC HEARING**

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

*58-0000-1304*, Proposed Submittal for Delegation of Regulation 40 CFR Part 62, Subpart HHH

Please refer to the Idaho Administrative Bulletin, **August 7, 2013, Volume 13-8**, 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](http://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](mailto: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.*

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# **ABRIDGED RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES**

*Idaho Department of Administration  
Office of the Administrative Rules Coordinator*

*April 4, 2013 -- August 7, 2013*

*(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 April 4, 2013 that have not been  
adopted as final rules and all rulemakings being promulgated after April 4, 2013 - Sine Die.)*

***IDAPA 02 -- DEPARTMENT OF AGRICULTURE******02.02.14, Rules for Weights and Measures***

- 02-0214-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-6  
**02-0214-1302** Proposed Rulemaking, Bulletin Vol. 13-7

***02.04.19, Rules Governing Domestic Cervidae***

- 02-0419-1301** Proposed Rulemaking, Bulletin Vol. 13-7

***02.04.20, Rules Governing Brucellosis***

- 02-0420-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7

***02.04.27, Rules Governing Deleterious Exotic Animals***

- 02-0427-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7

***02.03.03, Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application***

- 02-0303-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-6  
**02-0303-1302** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-6

***02.04.21, Rules Governing the Importation of Animals***

- 02-0421-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-6

***02.06.02, Rules Pertaining to the Idaho Commercial Feed Law***

- 02-0602-1301** Proposed Rulemaking, Bulletin Vol. 13-6

***02.06.09, Rules Governing Invasive Species***

- 02-0609-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-6  
**02-0609-1301** Proposed Rulemaking, Bulletin Vol. 13-8

***02.06.12, Rules Pertaining to the Idaho Fertilizer Law***

- 02-0612-1301** Proposed Rulemaking, Bulletin Vol. 13-6

***02.06.13, Rules Relating to Rapeseed Production and Establishment of Rapeseed Districts in the State of Idaho***

- 02-0613-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7

***02.06.22, Noxious Weed Rules***

- 02-0622-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-6  
**02-0622-1301** Proposed Rulemaking, Bulletin Vol. 13-8

***02.06.23, Noxious Weed Free Gravel and Rock Products Rules***

- 02-0623-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-6  
**02-0623-1301** Proposed Rulemaking, Bulletin Vol. 13-8

***02.06.25, Rules Governing Diseases and Pests of Soybeans***

- 02-0625-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking (New Chapter), Bulletin Vol. 13-7

***02.06.41, Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001***

- 02-0641-1301** Proposed Rulemaking, Bulletin Vol. 13-6

***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 (Rulemaking discontinued)  
**07-0106-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-5

**07.03.01, Rules of Building Safety**

- 07-0301-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-5

**07.07.01, Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems**

- 07-0701-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-5

**IDAHA 08 -- IDAHO STATE BOARD OF EDUCATION  
AND STATE DEPARTMENT OF EDUCATION****08.01.05, Idaho Promise Scholarship Program**

- 08-0105-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7  
**08-0105-1301** Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 13-8

**08.01.06, Leveraging Educational Assistance Partnership Program**

- 08-0106-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7  
**08-0106-1301** Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 13-8

**08.01.09, Rules Governing the GEAR UP Idaho Scholarship Program**

- 08-0109-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7  
**08-0109-1301** Proposed Rulemaking, Bulletin Vol. 13-8

**08.01.11, Registration of Postsecondary Educational Institutions and Proprietary Schools**

- 08-0111-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7

**08.01.12, Idaho Minority and "At-Risk" Student Scholarship Program**

- 08-0112-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7  
**08-0112-1301** Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 13-8

**08.01.13, Rules Governing the Idaho Opportunity Scholarship Program**

- 08-0113-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7  
**08-0113-1301** Proposed Rulemaking, Bulletin Vol. 13-8

**08.02.01, Rules Governing Administration**

- 08-0201-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-1 (eff. 12-13-12)T  
**08-0201-1301** OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 126, Bulletin Vol. 13-5  
**08-0201-1301** Adoption of Pending Rule, Bulletin Vol. 13-6 (eff. \*PLR 2014)

**08.02.02, Rules Governing Uniformity**

- 08-0202-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-6 (eff. 4-18-13)T  
**08-0202-1302** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 6-20-13)T  
**08-0202-1303** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 6-20-13)T  
**08-0202-1304** Proposed Rulemaking, Bulletin Vol. 13-8  
**08-0202-1305** Proposed Rulemaking, Bulletin Vol. 13-8

**08.02.03, Rules Governing Thoroughness**

- 08-0203-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7  
**08-0203-1302** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 6-20-13)T  
**08-0203-1303** Proposed Rulemaking, Bulletin Vol. 13-8  
**08-0202-1304** Proposed Rulemaking (Fee Rule), Bulletin Vol. 13-8

**08.02.04, Rules Governing Public Charter Schools**

- 08-0204-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7  
**08-0204-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 6-20-13)T

**08.03.01, Rules of the Public Charter School Commission**

- 08-0301-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7  
**08-0301-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 6-20-13)T

**IDAPA 09 -- IDAHO DEPARTMENT OF LABOR**

**09.01.30, Unemployment Insurance Benefits Administration Rules**

- 09-0130-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7

**09.01.35, Unemployment Insurance Tax Administration Rules**

- 09-0135-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7

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

**10.01.01, Rules of Procedure**

- 10-0101-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-5  
**10-0101-1301** Notice of Proposed Rule, Bulletin Vol. 13-7

**10.01.02, Rules of Professional Responsibility**

- 10-0102-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-5  
**10-0102-1301** Notice of Proposed Rule, Bulletin Vol. 13-7

**10.01.04, Rules of Continuing Professional Development**

- 10-0104-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-5  
**10-0104-1301** Notice of Proposed Rule, Bulletin Vol. 13-7

**IDAPA 11 -- IDAHO STATE POLICE**

**11.04.02, Rules Governing Simulcasting**

- 11-0402-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 7-1-13)T

**11.04.11, Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances  
and Drug Testing of Horses**

- 11-0411-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 7-1-13)T

**IDAPA 13 -- IDAHO FISH AND GAME COMMISSION**

**13.01.08, Rules Governing the Taking of Big Game Animals in the State of Idaho**

- 13-0108-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7  
**13-0108-1302** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7

**IDAPA 15 -- OFFICE OF THE GOVERNOR**

**Executive Orders of the Governor**

Executive Order No. **2013-03** Bulletin Vol. 13-5  
Executive Order No. **2013-01** Bulletin Vol. 13-2

Executive Order No. **2013-04** Bulletin Vol. 13-5  
Executive Order No. **2013-02** Bulletin Vol. 13-5

***Division Of Human Resources And Personnel Commission******15.04.01, Rules of the Division of Human Resources and Idaho Personnel Commission***

**15-0401-1301** Temporary Rulemaking, Bulletin Vol. 13-6 (eff. 7-1-13)T

**15-0401-1302** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-6

***IDAPA 16 -- DEPARTMENT OF HEALTH AND WELFARE******16.01.01, Emergency Medical Services (EMS) -- Advisory Committee (EMSAC)***

**16-0101-1301** Proposed Rulemaking, Bulletin Vol. 13-8

***16.01.02, Emergency Medical Services (EMS) - Rule Definitions***

**16-0102-1301** Proposed Rulemaking (New Chapter), Bulletin Vol. 13-8

***16.01.03, Emergency Medical Services (EMS) -- Agency Licensing Requirements***

**16-0103-1301** Proposed Rulemaking (New Chapter), Bulletin Vol. 13-8

***16.01.07, Emergency Medical Services (EMS) -- Personnel Licensing Requirements***

**16-0107-1301** Proposed Rulemaking, Bulletin Vol. 13-8

***16.01.12, Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions***

**16-0112-1301** Proposed Rulemaking, Bulletin Vol. 13-8

***16.02.02, Rules of the Idaho Emergency Medical Services (EMS) Physician Commission***

**16-0202-1301** Proposed Rulemaking, Bulletin Vol. 13-7

***16.02.03, Emergency Medical Services***

**16-0203-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-4

**16-0203-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking (Second Notice), Bulletin Vol. 13-5

**16-0203-1301** Proposed Rulemaking, Bulletin Vol. 13-8

***16.03.09, Medicaid Basic Plan Benefits***

**16-0309-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 9-1-13)T

***16.03.10, Medicaid Enhanced Plan Benefits***

**16-0310-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 9-1-13)T

***16.03.15, Rules and Minimum Standards for Semi-Independent Group Residential Facilities  
for the Developmentally Disabled or Mentally Ill***

**16-0315-1301** Proposed Rule (Chapter Repeal), Bulletin Vol. 13-6

***16.04.02, Idaho Telecommunication Service Assistance Program Rules***

**16-0402-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-7 (eff. 9-1-13)T

***16.05.06, Criminal History and Background Checks***

**16-0506-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 7-1-13)T

***16.06.01, Child and Family Services***

**16-0601-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-6 (eff. 7-1-13)T

***IDAPA 17 -- INDUSTRIAL COMMISSION***

***17.02.09, Medical Fees***

**17-0209-1301** Temporary Rulemaking, Bulletin Vol. 13-7 (eff. 7-1-13)T

***IDAPA 18 -- DEPARTMENT OF INSURANCE***

***18.01.04, Rules Pertaining to Bail Agents***

**18-0104-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7

***18.01.23, Rules Pertaining to the Idaho Insurance Holding Company System Regulatory Act***

**18-0123-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7

***18.01.30, Individual Disability and Group Supplemental Disability Insurance Minimum Standards Rule***

**18-0130-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7

***18.01.50, Adoption of the International Fire Code***

**18-0150-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7

***IDAPA 19 -- BOARD OF DENTISTRY***

***19.01.01, Rules of the Idaho State Board of Dentistry***

**19-0101-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7

***IDAPA 20 -- DEPARTMENT OF LANDS***

***20.02.01, Rules Pertaining to the Idaho Forest Practices Act***

**20-0201-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-6

***IDAPA 23 -- BOARD OF NURSING***

***23.01.01, Rules of the Idaho Board of Nursing***

**23-0101-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7

***IDAPA 24 -- BUREAU OF OCCUPATIONAL LICENSES***

***24.05.01, Rules of the Board of Drinking Water and Wastewater Professionals***

**24-0501-1301** Temporary Rulemaking (Fee Rule), Bulletin Vol. 13-7 (eff. 5-8-13)T

***24.13.01, Rules Governing the Physical Therapy Licensure Board***

**24-1301-1301** Proposed Rulemaking, Bulletin Vol. 13-8

**24-1301-1302** Proposed Rulemaking (Fee Rule), Bulletin Vol. 13-8

***24.25.01, Rules of the Idaho Driving Businesses Licensure Board***

**24-2501-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-7 (eff. 5-3-13)T

***IDAPA 27 -- BOARD OF PHARMACY***

***27.01.01, Rules of the Idaho State Board of Pharmacy***

- 27-0101-1207** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-12
- 27-0101-1207** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-1
- 27-0101-1207** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-2
- 27-0101-1207** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-3
- 27-0101-1207** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-5
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