

# IDAHO ADMINISTRATIVE BULLETIN

August 5, 2015 -- Volume 15-8

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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 rulemaking actions and must invite public input. This is done through negotiated rulemaking procedures or after proposed rulemaking has been initiated. The public receives notice that an agency has initiated proposed rulemaking procedures through the Idaho Administrative Bulletin and a legal notice (Public Notice of Intent) that publishes in authorized 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 - Proposed Rule” 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 **13-1** refers to the first Bulletin issued in calendar year **2013**; Bulletin **14-1** refers to the first Bulletin issued in calendar year **2014**. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. **13-1** refers to January 2013; Volume No. **13-2** refers to February 2013; and so forth. Example: The Bulletin published in January 2014 is cited as Volume **14-1**. The August 2015 Bulletin is cited as Volume **15-8**.

## 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 until approved as final.

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 must, when feasible, engage in negotiated rulemaking at the beginning of the process to facilitate consensus building. 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 rule.

## NEGOTIATED RULEMAKING

Negotiated rulemaking is a process in which all interested persons and the agency seek consensus on the content of a rule through dialogue. Agencies are required to conduct negotiated rulemaking whenever it is feasible to do so.

The agency files a “Notice of Intent to Promulgate - Negotiated Rulemaking” for publication in the Administrative Bulletin inviting interested persons to contact the agency if interested in discussing the agency’s intentions regarding the rule changes. This process is intended to result in the formulation of a proposed rule and the initiation of regular rulemaking procedures. One result, however, may also be that regular (proposed) rulemaking is not initiated and no further action is taken by the agency.

### **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 for or is occasioning 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) if any document is incorporated by reference in the proposed rule, a brief written synopsis of why the incorporation is needed must be included in the notice of proposed rulemaking, along with a link to the electronic version of the incorporated material or information on how it can be obtained.
- e) the text of the proposed rule prepared in legislative format;
- f) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;
- g) 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;
- h) the manner in which persons may request an opportunity for an oral presentation as provided in Section 67-5222, Idaho Code; and
- i) 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 web site or post this information on its own web site, or both. This link can be placed into the rule and activated once it is posted on the Coordinator’s web site.

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 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, however, 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 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 “-”, (**38-0501-1401**). 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. 38-0501-1401”**

“**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**).

“**1401**” 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 2014**. A subsequent rulemaking on this same rule chapter in calendar year 2014 would be designated as “**1402**”. The docket number in this scenario would be 38-0501-**1402**.

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 2015**

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
15-1	January 2015	<b>*November 28, 2014</b>	January 7, 2015	January 28, 2015
15-2	February 2015	January 9, 2015	February 4, 2015	February 25, 2015
15-3	March 2015	February 6, 2015	March 4, 2015	March 25, 2015
15-4	April 2015	March 6, 2015	April 1, 2015	April 22, 2015
15-5	May 2015	April 3, 2015	May 6, 2015	May 27, 2015
15-6	June 2015	May 8, 2015	June 3, 2015	June 24, 2015
15-7	July 2015	June 5, 2015	July 1, 2015	July 22, 2015
15-8	August 2015	July 10, 2015	August 5, 2015	August 26, 2015
15-9	September 2015	August 7, 2015	September 2, 2015	September 23, 2015
15-10	October 2015	<b>**September 4, 2015</b>	October 7, 2015	October 28, 2015
15-11	November 2015	October 9, 2015	November 4, 2015	November 25, 2015
15-12	December 2015	November 6, 2015	December 2, 2015	December 23, 2015

**BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2016**

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
16-1	January 2016	<b>*November 27, 2015</b>	January 6, 2016	January 26, 2016
16-2	February 2016	January 8, 2016	February 3, 2016	February 24, 2016
16-3	March 2016	February 5, 2016	March 2, 2016	March 23, 2016
16-4	April 2016	March 4, 2016	April 6, 2016	April 27, 2016
16-5	May 2016	April 8, 2016	May 4, 2016	May 25, 2016
16-6	June 2016	May 6, 2016	June 1, 2016	June 22, 2016
16-7	July 2016	June 3, 2016	July 6, 2016	July 27, 2016
16-8	August 2016	July 8, 2016	August 3, 2016	August 24, 2016
16-9	September 2016	August 5, 2016	September 7, 2016	September 28, 2016
16-10	October 2016	<b>**September 2, 2016</b>	October 5, 2016	October 26, 2016
16-11	November 2016	October 7, 2016	November 2, 2016	November 23, 2016
16-12	December 2016	November 4, 2016	December 7, 2016	December 28, 2016

***\*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 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, State (24.25) Landscape Architects, Board of (24.07) Liquefied Petroleum Gas Safety Board (24.22) Massage Therapy, Board of (24.27) Midwifery, State Board of (24.26) Morticians, Board of (24.08) Nursing Home Administrators, Board of Examiners of (24.09) Occupational Therapy Licensure Board, State (24.06) Optometry, Board of (24.10) Physical Therapy Licensure Board (24.13) Podiatry, Board of (24.11) Psychologist Examiners, Board of (24.12) Real Estate Appraiser Board (24.18) Residential Care Facility Administrators, Board of Examiners of (24.19) Social Work Examiners, Board of (24.14) Speech and Hearing Services 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>

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<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>

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2015-04**

**ADOPTING IDAHO'S SAGE-GROUSE MANAGEMENT PLAN**

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*WHEREAS, in December 2011, the U.S. Department of the Interior invited the eleven (11) western states impacted by a potential Endangered Species Act (ESA) listing of the greater sage-grouse to develop state- specific conservation plans that would conserve the species and its habitat while maintaining predictable levels of land use; and*

*WHEREAS, Governor Otter accepted the federal government's invitation, and by and through Executive Order 2012-02 established the Governor's Sage-grouse Task Force (Task Force) to collaboratively develop science-based recommendations for inclusion in Idaho's sage-grouse conservation plans; and*

*WHEREAS, in September 2012, and based on recommendations from the Task Force, I submitted the Federal Alternative of Governor C.L. "Butch" Otter for Greater Sage-grouse Management in Idaho (Governor's Alternative) as an alternative for inclusion in the National Greater Sage-grouse Land Use Planning Strategy. This national planning strategy amends some 68 U.S. Bureau of Land Management (BLM) planning units and 20 U.S. Forest Service (USFS) National Forest Plans by including objectives, habitat conditions and management actions for sage-grouse; and*

*WHEREAS, in February 2013, the U.S. Fish and Wildlife Service (FWS) published the Greater Sage- Grouse Conservation Objectives Team Final Report (COT Report). The purpose of the COT Report, which was developed in conjunction with state wildlife agencies, was to establish the ESA goals by identifying Primary Areas of Conservation (PAC) and the threats to the species throughout its range, as well as to develop conservation measures, based on the best available science, to address those threats. The COT Report provides the flexibility to create solutions that meet the needs of greater sage-grouse and the local ecological and socioeconomic conditions; and*

*WHEREAS, Governor Otter requested the FWS to evaluate the Governor's Alternative for consistency under the COT Report, and in April 2013, the FWS concluded that the foundational elements, and some individual components, within the Governor's Alternative were consistent with the COT Report. (App. 2); and*

*WHEREAS, based on the strength of FWS's recommendation, the BLM and USFS selected the Governor's Alternative as a co-preferred alternative within Idaho's portion of the national planning strategy (see Alternative E in the Idaho and Southwestern Montana Greater Sage-Grouse Draft Land Use Plan Amendments and Draft Environmental Impact Statement, 78 Fed. Reg. 65,703 (Nov. 1, 2013)); and*

*WHEREAS, the State has continued refining individual components of the Governor's Alternative, including but not limited to: (1) Idaho Code § 38-104B developing rangeland fire protection associations; (2) the State Board of Land Commissioners on April 21, 2015, adopting the Land Board's Greater Sage-grouse Conservation Plan (Land Board Plan) for State endowment lands complementary to the Governor's Alternative (App. 3); (3) the State Oil and Gas Conservation Commission on April 23, 2015, adopting portions of the Land Board Plan applicable to oil and gas programs (App. 3, p. 38); (4) working collaboratively with the local federal agencies' representatives and Task Force members to better clarify the Governor's Alternative; and (5) increasing state funding for enhanced lek monitoring, habitat restoration projects, and wildfire suppression; and*

*WHEREAS, it is vital to the interests of the State to continue these efforts as the listing of the species and/or overly restrictive federal land-use plan amendments would adversely impact Idaho's sovereign interest in managing its wildlife pursuant to Idaho Code § 36-103 and § 68-818, its customs, culture and way of life, and the State's ability to generate revenues from private property and endowment lands;*

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

That all executive agencies, to the extent consistent with existing state law, for relevant permits and policies, adopt the Governor's Alternative and all supporting documentation, incorporated in its entirety into this Executive Order by this reference, hereinafter known as "Idaho's Sage-grouse Management Plan," which includes:

**I. Application of the foundational elements of Idaho's Sage-grouse Management Plan (Idaho's Plan) to all landownerships.** These foundational elements are consistent with the COT Report and apply across all land ownerships.

- a. **Habitat Zones** – Idaho's Plan includes three distinct management zones: Core Habitat Zone (CHZ), Important Habitat Zone (IHZ), and General Habitat Zone (GHZ). The COT Report identified the most important habitat areas for maintaining sage-grouse representation, redundancy, and resiliency across the landscape. These areas (or PACs) closely align with CHZ and IHZ. The three management zones within the Sage-grouse Management Area (SGMA) represent a management continuum that includes, at one end, a relatively restrictive approach aimed at providing a high level of protection to the species within the CHZ, and on the other end, a relatively flexible approach for the GHZ allowing for more multiple-use activities. The zones are reflected in the attached map. (App. 1, p. 24).
  - i. **Core Habitat Zone (CHZ)** – The CHZ includes approximately sixty-five percent (65%) of the known active leks and is occupied by approximately seventy-three percent (73%) of sage-grouse males. CHZ supports the highest breeding densities of sage-grouse in Idaho, and maintenance of these populations ensures that Idaho has a viable and robust population of sage-grouse. Management in CHZ is the most restrictive to protect what local data shows as the "best of the best" habitat.
  - ii. **Important Habitat Zone (IHZ)** – The IHZ includes approximately twenty-five percent (25%) of the known active leks and is occupied by approximately twenty-two percent (22%) of sage-grouse males.
  - iii. **General Habitat Zone (GHZ)** – This management zone includes five percent (5%) of sage-grouse males, and generally includes few active leks and fragmented or marginal habitat.
- b. **Population Objectives** – In conjunction with the habitat zones, these population goals: (1) measure the efficacy of the State plan; and (2) ensure that there is an appropriately tailored response to significant fluctuations in habitat and populations.
  - i. **Objective 1** – Implement regulatory mechanisms that maintain and enhance sage-grouse habitats, populations, and connectivity within CHZ. Recognizing the impact of wildfire, the IHZ provides important management flexibility and a strategic conservation buffer.
  - ii. **Objective 2** – Stabilize sage-grouse habitats and populations by monitoring the effectiveness of the regulatory measures over time. A primary objective is to minimize habitat lost within CHZ, and to a lesser extent, IHZ.
- c. **Conservation Areas** – Idaho's Plan divided the SGMA into four Conservation Areas (CA) across the state: the Mountain Valleys, Desert, West Owyhee, and Southern. Each CA is divided into Core, Important, and General management zones. (App. 1, p. 8).
- d. **Adaptive Regulatory Triggers** – Given the unpredictability of wildfire, these triggers provide a regulatory backstop to manage loss within a CA. An adaptive trigger is employed when dramatic shifts in the population or habitat occurs based on an average over a three year period compared to the 2011 baseline.
  - i. The adaptive triggers are based on the severity of habitat or population loss (i.e. a "soft trigger" or a "hard trigger"). (App. 1, pp. 11, 69-71).
  - ii. When monitoring information indicates that a soft trigger may be tripped, the Implementation Commission<sup>1</sup> – aided by technical expertise from Idaho Department of Fish and Game and other relevant State agencies – will assess the factor(s) leading to the decline and recommend potential management actions. (App. 1, p. 69).

<sup>1</sup> Should the BLM and USFS adopt the Governor's Alternative, or an alternative consistent with the Governor's Alternative, for incorporation into relevant Land and Resource Management Plans, the Governor shall execute a companion Executive Order establishing an Implementation Task Force as outlined in Appendix 1, pages 21, 67-71.

- iii. *If the hard trigger becomes operative, management changes no longer are discretionary and will be implemented by the Implementation Task Force.*
- e. *Rangeland Fire Protection Associations (RFPAs) – RFPAs act as a regulatory mechanism across all landownerships ensuring quicker initial attack on wildfires in the CHZ and IHZ through the deployment of additional trained firefighters and resources located in rural parts of the SGMA.*
  - i. *Idaho Code § 38-104B provides for the creation and funding of RFPAs in Idaho.*
  - ii. *RFPA members work collaboratively with federal land management agencies and Idaho Department of Lands (IDL) to protect more than 2.9 million acres of federal and state rangeland and 675,000 acres of private land. These numbers are expected to grow as additional RFPAs become operational in the near future.*
  - iii. *The success and effectiveness of RFPAs in Idaho is considered a model by other western states.*

**II. Applicability of Idaho's Plan to Lands Managed by the Federal Government** (as more fully described in Alternative E of the Draft Environmental Impact Statement)<sup>2</sup>

- a. **Fire** – *Idaho's Plan for wildfire on federal lands focuses efforts on prevention, suppression, and restoration. The objective within Idaho's Plan is to implement actions necessary to manage fire within the normal range of fire activity and maintain and restore healthy, native sage-steppe plant communities within CHZ and IHZ.*
- b. **Invasive species** – *In addition to the wildfire restoration efforts, Idaho's Plan calls for the aggressive management of exotic undesirable plant species within the CHZ and IHZ.*
- c. **Infrastructure** – *Infrastructure means discrete, large-scale anthropogenic features, including but not limited to, highways, high voltage transmission lines, commercial wind projects, energy development (e.g. oil and gas development, geothermal wells), airports, mines, cell phone towers, landfills, residential and commercial subdivisions. (App. 1, p. 32).*
  - i. *Permitted activities in specific habitat designations*
    - 1. *Infrastructure in CHZ – Infrastructure development in areas designated as CHZ is prohibited, except if conducted pursuant to a valid existing right, incremental upgrade and/or capacity increase of existing development, or if a project-level exemption is obtainable by meeting the criteria outlined in Appendix 1, including compensatory mitigation. (App. 1, pp. 35-36).*
    - 2. *Infrastructure in IHZ – Infrastructure development in areas designated as IHZ is permissible subject to meeting the criteria specified within Idaho's Plan and approved by the BLM State Director. (App. 1, p. 42)*
  - ii. *Best Management Practices (BMPs) for proposed infrastructure development within CHZ and IHZ.*
    - 1. *Infrastructure development should reflect unique localized conditions including soils, vegetation, development type, predation, climate, and other local realities and should utilize best management practices as described in Idaho's Plan. (App. 1, pp. 43-45).*
    - 2. *A lek buffer of 1 km (0.6 miles) from occupied leks will be applied to essential public services, including but not limited to distribution lines, domestic water lines, and gas lines. This will enable development in a manner that maintains populations, habitats, and essential migration routes where possible. (App. 1, pp. 43-45).*

<sup>2</sup> Governor Otter encourages the adoption of Alternative E in the final EIS as it is consistent with the laws, programs, and policies of the State of Idaho. However, the Governor recognizes that the BLM and USFS may adopt a different alternative (or revised alternative) in the record of decision (ROD) and such action may necessitate a revision to this Executive Order.

3. *No Surface Occupancy (NSO) within 1 km of an occupied lek will be applied to oil and gas development. (App. 1, pp. 46-47)*
- iii. *Nothing in Idaho's Plan shall revoke, suspend, or modify any project or activity decision made prior to the effective date of the ROD.*
- d. **Improper livestock grazing (secondary threat)** –*This section of Idaho's Plan requires that the Idaho Rangeland Health Standards (IRHS) be met and is consistent with the COT report. While no studies exist directly relating livestock grazing systems or stocking rates to sage-grouse abundance or productivity, Idaho's Plan addresses improper livestock grazing within CHZ and IHZ through adaptive management according to the following process:*
  - i. *Sage-grouse habitat characteristics will be incorporated into relevant Resource Management Plans as desired conditions, recognizing that these desired conditions may not be achievable due to the existing ecological condition of an allotment, the ecological potential of the area, or causal events unrelated to livestock grazing. (App. 1, pp. 14-20).*
  - ii. *Based on these habitat characteristics, habitat assessments will be conducted to help inform grazing management in conjunction with scheduled term grazing permit renewals or if an adaptive regulatory trigger has been tripped. (App. 1, p. 73-75).*
  - iii. *In conjunction with scheduled term grazing permit renewals, livestock grazing will be assessed through the IRHS (primarily Standards 2, 4, and 8), as informed by the COT Report with respect to sage-grouse. (see Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management (1997)).*
    1. *Assuming no adaptive regulatory trigger has been tripped, there is a rebuttable presumption that current grazing systems within a particular CA are adequate to maintain viable sage-grouse populations.*
    2. *This does not preclude adaptive changes to grazing permits based on the other standards contained in the IRHS.*
  - iv. *If an adaptive regulatory trigger has been tripped within a CA, and after a more thorough analysis of those allotments within a relevant CA determines that improper livestock grazing is a potential limiting factor, modifications to permits will be determined based on ecological site potential and will be selected from the suite of management options outlined in Idaho's Plan. (App. 1, pp. 48-50).*

### III. **Applicability of Idaho's Plan on State and private lands**

- a. *In April 2015, the State Board of Land Commissioners and the Idaho Oil and Gas Conservation Commission contingently approved the Land Board Plan. (App. 3). The Land Board Plan, consistent with the constitutional mandate (IDAHO CONST. ART. IX, § 8), includes enforceable regulatory stipulations for inclusion into certain leases, permits, and easements on State endowment lands. Adoption and implementation of the Land Board Plan is contingent upon the incorporation of Idaho's Plan into the federal land- use plan amendments for sage-grouse.*
- b. *Certain permit holders on private lands can voluntarily agree to add BMPs into their permit, which would then become binding. However, private land comprises less than twenty percent (20%) of sage-grouse habitat in Idaho (and less than 6% of the CHZ).*
- c. *Existing land uses and landowner activities are vital to the State of Idaho. Idaho's Plan recognizes changes in sage-grouse populations and habitats on private lands could influence land management on public lands as adaptive triggers can become operative within a CA regardless of landownership. To offset any impacts, SGMAs have been designed to provide flexibility in order to allow for the continuation of land uses and valid existing rights. In addition, Idaho continues to encourage voluntary conservation efforts on private land for the conservation of sage-grouse.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho in Boise on this 27th day of May in the year of our Lord two thousand and fourteen, and of the Independence of the United States of America the two hundred thirty-eight and of the Statehood of Idaho the one hundred twenty-second.*

A handwritten signature in blue ink, reading "C.L. Butch Otter", written over a horizontal line.

C.L. "BUTCH" OTTER  
GOVERNOR

A handwritten signature in blue ink, reading "Lawrence Denney", written over a horizontal line.

LAWRENCE DENNEY  
SECRETARY OF STATE

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2015-05**

**AUTHORIZING THE IDAHO HOUSING AND FINANCE ASSOCIATION TO ACT AS  
THE STATE DESIGNATED ENTITY FOR THE NATIONAL HOUSING TRUST FUND**

*WHEREAS, Congress has passed the Housing and Economic Recovery Act of 2008 (the "Act"), which authorized creation of a National Housing Trust Fund ("HTF") and provided for a "state designated entity" ("SDE") to administer funds from the HTF for each state, including Idaho; and*

*WHEREAS, the Act provides that funding for the HTF will come from excess revenue generated by Fannie Mae and Freddie Mac, Government Service Enterprises, and collection of such revenue has commenced in 2015 and is expected to be allocated to states in early 2016; and*

*WHEREAS, the Act provides for the U.S. Department of Housing and Urban Development to oversee HTF funding and compliance with federal regulations; and*

*WHEREAS, the Act provides that a SDE must be a statewide housing finance entity designated by the Governor of the State; and*

*WHEREAS, the Idaho Housing and Finance Association (the "IHFA"), a public body corporate and politic and instrumentality of the State of Idaho, has the expertise and qualifies to administer HTF funds in Idaho.*

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

- 1. That the Idaho Housing and Finance Association is hereby designated as the "state designated entity" to administer HTF funds in Idaho.*
- 2. HTF funds in Idaho shall be administered in accordance with the Act and related guidelines.*

*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 27th day of May, in the year of our Lord two thousand and fourteen, and of the independence of the United States of America the two hundred thirty-ninth and of the Statehood of Idaho the one hundred twenty-fifth.*



C.L. "BUTCH" OTTER  
GOVERNOR

LAWRENCE DENNEY  
SECRETARY OF STATE

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2015-06**

**PROVISIONS FOR STATE COOPERATION WITH THE FEDERAL INSURANCE ADMINISTRATION  
UNDER THE NATIONAL FLOOD INSURANCE ACT OF 1968, AS AMENDED**

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*WHEREAS, Idaho's floodplains have been developed in a way that may increase potential flood losses despite efforts to mitigate floods; and*

*WHEREAS, national, state and local studies of areas and property subject to flooding predict increases in flood damage potential and flood losses, despite continuing investment in flood protection structures; and*

*WHEREAS, the State of Idaho maintains programs for the construction of buildings, roads and other facilities and annually acquires and disposes of lands in flood hazard areas, which influences patterns of commercial, residential and industrial development; and*

*WHEREAS, the availability of flood insurance under the National Flood Insurance Program, as provided by the National Flood Insurance Act of 1968, as amended, is dependent upon state coordination of federal, State and local activities to manage floodplains, mudflow areas and flood-related erosion areas in the state; and*

*WHEREAS, the Idaho Department of Water Resources (IDWR) is the State agency responsible for assisting with local regulations necessary for flood insurance provided by the National Flood Insurance Act of 1968 and regulations set forth in 44 CFR §60.25; and*

*WHEREAS, the Federal Emergency Management Agency (FEMA) has promulgated and adopted rules and regulations governing eligibility of State and local communities to participate in the National Flood Insurance Program, dependent upon State coordination of federal, State, and local activities to manage floodplains, mudflow areas and flood-related erosion areas in the state;*

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

- 1. IDWR is hereby designated as the State agency to lead State implementation and administration of the National Flood Insurance Act of 1968 and 44 CFR §60.25, Rules and Regulations of the Federal Insurance Administration.*
- 2. IDWR shall encourage a broad and unified effort to promote wise use and development of the state's floodplains and, in particular, to reduce the risk of flood losses in connection with State lands and installation and State-financed or supported improvements, specifically as follows:*
  - a) Under the leadership and direction of the Idaho Department of Administration, all State agencies directly responsible for construction of buildings, structures roads or other facilities shall preclude the unsafe or unnecessary use of floodplains in connection with such facilities; in the event of construction in the floodplain, management criteria set forth in 44 CFR §60.3, 60.4, and 60.5 of the National Flood Insurance Regulations shall apply; flood-proofing measures shall be applied to existing facilities in order to reduce flood damage potential;*
  - b) All State agencies responsible for the administration of grant or loan programs involving the construction of building, structures, roads or other facilities shall evaluate flood hazards in connection with such facilities and, in order to minimize the exposure of facilities to potential flood damage and the need for future State expenditures for flood protection and flood disaster relief, shall preclude the unsafe or unnecessary use of floodplains in such connection;*

- c) All State agencies responsible for disposal of lands or properties shall evaluate flood hazards in connection with lands or properties proposed for disposal to other public instrumentalities or private interests and, in order to minimize future State expenditures for flood protection and flood disaster relief, shall notify those instrumentalities and private interests that such hazards exist;
- d) All State agencies responsible for programs that affect land-use planning, including State permit programs, shall take flood hazards into account when evaluating plans and shall encourage land use appropriate to the degree of hazard involved;
- e) In evaluating flood hazard potential, all State agencies shall coordinate their work with IDWR to ensure that the most up-to-date data and/or methods of analysis are utilized; and
- f) As may be permitted by law, the head of each State agency shall issue appropriate rules and regulations to govern implementation of the provisions of Section 1 of this order by each agency to be coordinated with the Department of Administration.



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 22nd day of June, in the year of our Lord two thousand and fifteen, and of the independence of the United States of America the two hundred thirty-ninth and of the Statehood of Idaho the one hundred twenty-fifth.*

C.L. "BUTCH" OTTER  
GOVERNOR

LAWRENCE DENNEY  
SECRETARY OF STATE

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

## **08.02.03 - RULES GOVERNING THOROUGHNESS**

**DOCKET NO. 08-0203-1506**

### **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 19, 2015.

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

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

This rulemaking incorporates by reference the new Special Education Manual and cut scores for the Idaho Standards Achievement Test (ISAT).

**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 negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because these new standards were approved by committees made up of subject matter experts.

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

The Special Education Manual is approximately 200 pages in length. The cut scores are very lengthy and detailed as well. By incorporating them, this keeps the rule much cleaner and easier to follow.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jo Ann Bujarski, (208) 332-6812.

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 26, 2015.

DATED this 29th day of June, 2015.

Sherri Ybarra  
Superintendent of Public Instruction  
State Department of Education  
650 W. State St., 2nd Floor  
PO Box 83720  
Boise ID 83720-0027  
TEL: (208) 332-6812  
FAX: (208) 334-2228

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0203-1506**  
**(Only those Sections being amended are shown.)**

**004. INCORPORATION BY REFERENCE.**

The following documents are incorporated into this rule: (3-30-07)

**01. The Idaho Content Standards.** The Idaho Content Standards as adopted by the State Board of Education. Individual subject content standards are adopted in various years in relation to the curricular materials adoption schedule. Copies of the document can be found on the State Board of Education website at [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (3-29-10)

- a. Driver Education, as revised and adopted on August 21, 2008. (3-29-10)
- b. Health, as revised and adopted on April 17, 2009. (3-29-10)
- c. Humanities Categories: (3-29-10)
  - i. Art, as revised and adopted on April 17, 2009; (3-29-10)
  - ii. Dance, as revised and adopted on April 17, 2009; (3-29-10)
  - iii. Drama, as revised and adopted on April 17, 2009; (3-29-10)
  - iv. Interdisciplinary, as revised and adopted on April 17, 2009; (3-29-10)
  - v. Music, as revised and adopted on April 17, 2009; (3-29-10)
  - vi. World languages, as revised and adopted on April 17, 2009. (3-29-10)
- d. English Language Arts, as revised and adopted on August 11, 2010. (4-7-11)
- e. Limited English Proficiency, as revised and adopted on August 21, 2008. (3-29-10)
- f. Mathematics, as revised and adopted on August 11, 2010. (4-7-11)
- g. Physical Education, as revised and adopted on April 17, 2009. (3-29-10)
- h. Science, as revised and adopted on April 17, 2009. (3-29-10)
- i. Social Studies, as revised and adopted on April 17, 2009. (3-29-10)
- j. Information and Communication Technology, as revised and adopted on April 22, 2010. (4-7-11)

**02. The English Language Development (ELD) Standards.** The World-Class Instructional Design and Assessment (WIDA) 2012 English Language Development (ELD) Standards as adopted by the State Board of Education on August 16, 2012. Copies of the document can be found on the WIDA website at [www.wida.us/standards/eld.aspx](http://www.wida.us/standards/eld.aspx). (4-4-13)

**03. The Limited English Proficiency Program Annual Measurable Achievement Objectives (AMAOs) and Accountability Procedures.** The Limited English Proficiency Program Annual Measurable Achievement Objectives and Accountability Procedures as adopted by the State Board of Education on November 11, 2009. Copies of the document can be found on the State Department of Education website at [www.sde.idaho.gov](http://www.sde.idaho.gov). (4-7-11)

**04. The Idaho English Language Assessment (IELA) Achievement Standards.** The Idaho English Language Assessment (IELA) Achievement Standards as adopted by the State Board of Education on November 11, 2009. Copies of the document can be found on the State Department of Education website at [www.sde.idaho.gov](http://www.sde.idaho.gov). (4-7-11)

**05. The Idaho Standards Achievement Tests (ISAT) Achievement Standards.** Achievement Standards as adopted by the State Board of Education on ~~May 30, 2007~~ February 19, 2015. Copies of the document can be found on the State Board of Education website at [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (~~4-2-08~~)( )

**06. The Idaho Extended Content Standards.** The Idaho Extended Content Standards as adopted by the State Board of Education on April 17, 2008. Copies of the document can be found at the State Board of Education website at [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (5-8-09)

**07. The Idaho Alternate Assessment Achievement Standards.** Alternate Assessment Achievement Standards as adopted by the State Board of Education on May 18, 2011. Copies of the document can be found on the State Board of Education website at [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (3-29-12)

**08. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Deaf or Hard of Hearing.** As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (4-2-08)

**09. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Blind or Visually Impaired.** As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (4-2-08)

**10. The Idaho Special Education Manual.** As adopted by the State Board of Education on January 15, 2015. Copies of the document can be found on the State Board of Education website at [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). ( )

**IDAPA 11 - IDAHO STATE POLICE  
IDAHO STATE RACING COMMISSION**

**11.04.02 - RULES GOVERNING SIMULCASTING**

**DOCKET NO. 11-0402-1501**

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

**EFFECTIVE DATE:** The effective date of the temporary rule is July 29, 2015.

**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, 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 19, 2015.

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 provides for a moratorium on the issuance of any additional licenses for historical horse racing and caps the number of terminals that a licensee may operate at the location licensed and approved as of January 1, 2015.

**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:

This rule protects the public health, safety and welfare by limiting pari-mutuel historical horse racing to the three locations in Idaho that were licensed as of January 1, 2015 for simulcast and historical horse racing.

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

No fees are imposed or changed 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 or dedicated funds.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the 2015 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 Idaho State Racing Commission 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 26, 2015.

DATED this 29th Day of July, 2015.

Paul J. Schneider, Chairman  
Idaho Racing Commission  
700 S Stratford Dr.  
Meridian, ID 83642  
Tel: (208) 884-7080  
Fax: (208) 884-7098

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 11-0402-1501  
(Only those Sections being amended are shown.)**

**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. (3-20-14)

**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. (3-20-14)

**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. (3-20-14)

**04. Cash or Cash Vouchers Only.** Historical horse racing terminals shall use cash or cash vouchers only. (3-20-14)

**05. License Must Hold Current Simulcast License.** A licensee may not apply for a license to conduct historical racing unless that licensee holds a current simulcast license and has conducted simulcasting of live racing for a period of at least one (1) year. (4-11-15)

**06. Moratorium on Issuance of Historical Racing Licenses.** The Commission shall not issue a new license to conduct historical racing to any licensee that did not hold a license to conduct historical horse racing as of January 1, 2015. (7-29-15)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**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. (3-20-14)

**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. (3-20-14)

**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: (3-20-14)

- a. The manufacturer, make, and model of the terminal, including a copy of all literature supplied by the manufacturer of the terminal; (3-20-14)
- b. The maintenance and repair procedures that will ensure the integrity of the terminals; and (3-20-14)
- c. A complete list of individuals who are authorized to examine and repair the terminals for any reason. (3-20-14)

**04. Commission May Require Terminal Testing.** The eCommission 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. (3-20-14)

**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. (3-20-14)

**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. (3-20-14)

**07. Moratorium on Addition of Historical Racing Terminals.** The Commission shall not approve the addition of any historical racing terminals for a licensee beyond the number of terminals that have been approved by the Commission as of January 1, 2015. (7-29-15)T

**IDAPA 11 - IDAHO STATE POLICE  
IDAHO STATE RACING COMMISSION**

**11.04.06 - RULES GOVERNING RACING OFFICIALS**

**DOCKET NO. 11-0406-1501**

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

**EFFECTIVE DATE:** The effective date of the temporary rule is July 29, 2015.

**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 19, 2015.

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

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

This rulemaking will allow the Idaho State Racing Commission to appoint and compensate a third steward for live racing events in Idaho. Under the current rule, the third steward has been compensated for by the racing associations. This rulemaking also outlines the steward's duties as a presiding state steward and the duties of the two deputy state stewards.

**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 temporary rule confers a benefit to the industry by simplifying the selection of the stewards required to preside over live racing meets beginning in May 2015 and allows the Racing Commission to compensate a third steward for live racing events. Stewards enforce all of laws and rules that govern live horse racing and are necessary to protect the integrity of horse racing sanctioned in Idaho.

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

No fees are imposed or changed 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. The fiscal impact to dedicated funds will be \$24,000.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the 2015 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 Idaho State Racing Commission 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 26, 2015.

DATED this 29th Day of July, 2015.

Paul J. Schneider, Chairman  
Idaho Racing Commission  
700 S Stratford Dr.  
Meridian, ID 83642  
Tel: (208) 884-7080  
Fax: (208) 884-7098

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 11-0406-1501  
(Only those Sections being amended are shown.)**

**010. DEFINITIONS.**

- 01. Appointment.** A person approved by the Racing Commission or its designee, for an official racing position. (3-29-10)
- 02. Apprentice Jockey.** A jockey who has not ridden a certain number of winners within a specified period of time. (3-29-10)
- 03. Approval.** Acceptance of a racing official's eligibility by the Racing Commission or its designee. (3-29-10)
- 04. Assistant Starter.** The employee of a racing association who, under direct supervision of the starter, helps place the starting gate for a race, leads horses into the gate, helps jockeys and handles horses while in the gate until the start. (3-29-10)
- 05. Attendance.** Being at an assigned location for an assigned period of time. (3-29-10)
- 06. Clerk of Scales.** The employee of a racing association responsible for sequestering all jockeys each racing day, weighing all jockeys out and in from races, checking their assigned riding weights versus their actual weights, and reporting all changes. (3-29-10)
- 07. Clocker.** A person who times workouts and races. (3-29-10)
- 08. Commission Veterinarian.** A Racing Commission appointed veterinarian having authority to enforce the Racing Commission's rules relating to veterinary practices. (3-29-10)
- 09. Complaint.** A written allegation of a violation of these rules. (3-29-10)
- 10. Conditions.** Qualifications which determine a horse's eligibility to be entered in a race. (3-29-10)
- 11. Controlled Substance.** Any substance included in the five (5) classification schedules of the (U.S.) Controlled Substance Act of 1970. (3-29-10)
- 12. Daily Program.** The published listing of all contests and contestants for a specific performance. (3-29-10)

13. **Dead Heat.** The finish of a race in which the noses of two (2) or more horses reach the finish line at the same time. (3-29-10)
14. **Declaration.** The act of withdrawing an entered horse from a race before the closing of overnight entries. (3-29-10)
15. **Disciplinary Action.** An action taken for misconduct or rule violation(s). (3-29-10)
16. **Eligibility Certificate.** Document(s) showing the eligibility of all horses competing at the track or stabled on the grounds. (3-29-10)
17. **Entrance Money Records.** A record showing all monies due and paid prior to entry of a contest. (3-29-10)
18. **Entries.** A list of horses entered in a race. (3-29-10)
19. **Gate Judge.** A track employee who is present at the starting gate just prior to the running of each race. (3-29-10)
20. **Horse Identifier.** A person who is responsible for positively identifying all horses entered to a race, stabled or on racing association grounds. (3-29-10)
21. **Horsemen's Bookkeeper.** A bonded racing association employee who manages the horsemen's accounts which covers all monies due horseman in regards to purses, stakes, rewards, claims and deposits. (3-29-10)
22. **Jockey's Room.** A room reserved for jockey's to prepare for a race. (3-29-10)
23. **Jockey Room Custodian.** A racing association employee authorized to regulate the conduct of the jockeys, ensure good order is maintained and monitors the jockeys. (3-29-10)
24. **Jurisdiction.** The limits or territory within which Racing Officials authority may be exercised. (3-29-10)
25. **Licensing.** Determination for eligibility of a racing official by the Racing Commission or its designee. (3-29-10)
26. **Nerved Horses.** A horse that has had posterior digital neurectomy (heel nerving) surgery. (3-29-10)
27. **Nomination.** The naming of a horse to a certain race or series of races generally accompanied by payment of a prescribed fee. (3-29-10)
28. **Objection.** A verbal claim of foul in a race lodged with the stewards or their designee by the horse's jockey, trainer, owner or the owner's authorized agent before the race is declared official. (3-29-10)
29. **Order of Finish.** The order of finish of the contestants in a contest as declared official by the stewards/judges. (3-29-10)
30. **Paddock Judge.** The employee of a racing association responsible for getting jockeys and horses in order to go to the starting gate; also checks the equipment used by each horse and supervises the saddling of the horses. (3-29-10)
31. **Paddock Judge's List.** A list of horses which may not be entered in a race for safety reasons. (3-29-10)
32. **Patrol Judge.** A person who observes a race and reports information concerning the race to the

- stewards. (3-29-10)
33. **Photo Finish.** A requested photo to help in determining the correct order of finish. (3-29-10)
34. **Placing Judge.** A person who determines the order of finish in a race as the horses pass the finish line. (3-29-10)
35. **Presiding State Steward.** One (1) of the ~~two~~ three (23) stewards appointed by the Racing Commission who presides over ~~all~~ hearings and designates duties for the other stewards. ~~(3-29-10)~~ (7-29-15)T
36. **Protest.** A written complaint made to the stewards concerning a horse entered in a race and filed not later than one (1) hour prior to the scheduled post time of the first race on the day in which the questioned horse is entered. (3-29-10)
37. **Purse.** The total dollar amount for which a race is contested. (3-29-10)
38. **Race Meet.** The number of races and race days approved by the Racing Commission in the Racing Association license. (3-29-10)
39. **Racing Association.** Any person licensed by the Racing Commission to conduct a race meet and pari-mutuel wagering. (3-29-10)
40. **Racing Commission.** Three (3) member Idaho State Racing Commission created by Section 54-2503, Idaho Code, or its designee. (3-29-10)
41. **Racing Secretary.** The employee of a racing association, who writes the conditions for the races, assigns the weights for handicap races, receives entries, conducts the draw, and is responsible for the operation and organization of the race office. (3-29-10)
42. **Records.** A daily log kept by the presiding steward of the stewards' official activities. Also, an accounting of each horse, owner, trainer or jockey participating at a race meet who had funds due or on deposit in the horsemen's account completed by the Horsemen's Bookkeeper's. (3-29-10)
43. **Reports.** A daily account of the stewards' actions and observations made during each day's race program. (3-29-10)
44. **Rule Off.** An action by the racing stewards, under these rules, to suspend a license for a violation of these rules. (3-29-10)
45. **Stake.** The prize in a contest. (3-29-10)
46. **Stalls.** Stable area on racing association grounds for horses assigned by the racing secretary. (3-29-10)
47. **Starter.** The employee of a racing association responsible for dispatching the horses for a race. (3-29-10)
48. **Starter's List.** A list of all horses which are ineligible to be entered in any race due to poor or inconsistent behavior or performance in the starting gate. (3-29-10)
49. **Stewards.** A horse racing official who presides over a race meet, has jurisdiction over all racing officials, rules on protests and claims of foul, and imposes fines and suspensions. (3-29-10)
50. **Substitute Officials.** An emergency vacancy among racing officials that is filled with the stewards' approval and reported to the Racing Commission. (3-29-10)
51. **Substitute Steward.** Appointment by the remaining stewards during an absence of any steward at

- race time when an approved alternate is not available. (3-29-10)
52. **Timer.** A person who accurately records the time elapsed between the start and finish of each race. (3-29-10)
53. **Violations.** All unauthorized activities under these rules. (3-29-10)
54. **Wagering.** To risk or stake an amount of money on an unknown outcome. (3-29-10)
55. **Weight.** The amount that a jockey weighs prior to and after a race. (3-29-10)

**(BREAK IN CONTINUITY OF SECTIONS)**

**055. NUMBER OF STEWARDS.**

There must be three (3) Stewards to supervise each race meet; (3-29-10)

**01. Presiding State Steward.** One (1) steward will be assigned, and compensated by the Racing Commission to be the Presiding State ~~and has authority over the other s~~Stewards; ~~(3-29-10)~~(7-29-15)T

**02. Deputy State Stewards.** ~~One~~ Two (~~1~~2) stewards will be assigned by the Racing Commission to be the Deputy State Stewards and shall be compensated by the Racing Commission; ~~and.~~ ~~(3-29-10)~~(7-29-15)T

~~**03. Other Steward.** One (1) steward will be appointed by the Racing Association and must be compensated by the Racing Association. (3-29-10)~~

**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. 11-0411-1501**

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

**EFFECTIVE DATE:** The effective date of the temporary rule is July 29, 2015.

**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 19, 2015.

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 eliminates the requirement for an owner or trainer to have to request for the collection and testing of a split blood sample. The samples will be collected and stored by the Idaho State Racing Commission Veterinarian at the testing barn. All costs associated with storing will be at the expense of the Commission.

**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 confers a benefit by eliminating the cost and process required for a horse owner or trainer to request in writing and pay for the collection and storage of a split sample. Further, this rule will further protect the integrity of horse racing sanctioned in Idaho.

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

No fees are imposed or changed 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. The fiscal impact to dedicated funds will be \$850 to \$1,250.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the 2015 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 Idaho State Racing Commission 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 26, 2015.

DATED this 29th Day of July, 2015.

Paul J. Schneider, Chairman  
Idaho Racing Commission  
700 S Stratford Dr.  
Meridian, ID 83642  
Tel: (208) 884-7080  
Fax: (208) 884-7098

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 11-0411-1501  
(Only those Sections being amended are shown.)**

**140. DETERMINATION OF SAMPLE.**

**01. Minimum Sample.** The commission veterinarian will determine a minimum sample requirement for the primary testing laboratory. (3-29-10)

**02. Less Than The Minimum.** If the specimen obtained from a horse is less than the minimum sample requirement, the entire specimen must be sent to the primary testing laboratory. (3-29-10)

**03. More Than The Minimum.** If a specimen obtained is greater than the minimum sample requirement, the portion of the sample that is greater than the minimum sample requirement may be secured as the split sample if proper storage capabilities exist ~~and it is requested by the owner or trainer in writing prior to sample collection from the tested horse. All costs of collecting and storing samples will be at the expense of the owner or trainer requesting the split sample.~~ (3-29-10)(7-29-15)T

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

**16.01.01 - EMERGENCY MEDICAL SERVICES (EMS) -- ADVISORY COMMITTEE (EMSAC)**

**DOCKET NO. 16-0101-1501**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-1023, Idaho Code.

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

**Tuesday, August 11, 2015 - 10:00 a.m. MDT**

**2224 East Old Penitentiary Road  
Boise, ID 83712**

**PARTICIPATION BY WEBINAR  
(for those who are unable to attend the hearing)**

**To join the webinar, go to:  
<https://global.gotomeeting.com/join/553709749>**

**Use your microphone and speakers (VoIP) -- a headset is recommended. Or, call in using your telephone.**

Dial: 1 (646) 749-3122  
Access Code: 553-709-749

**Audio PIN: Shown after joining the meeting using URL above  
Meeting ID: 553-709-749**

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:

A new chapter containing EMS education requirements is being promulgated (IDAPA 16.01.05). As part of its responsibilities, EMSAC reviews educational curricula and standards. A citation to this new chapter needs to be added to the portion of the EMSAC rules that describes EMSAC responsibilities related to EMS education. In addition, the current EMS chapter (IDAPA 16.02.03) is being repealed and some requirements from that chapter (e.g., regarding advance "do not resuscitate" directives) need to be moved into this chapter so that they remain in effect.

The negotiated rulemaking meetings listed above will allow stakeholders to provide their input concerning the rules that are being revised, updated, and reorganized into this new EMS education 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 negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

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 three (3) times: in the March 4, 2015, Idaho Administrative Bulletin, **Vol. 15-3, pages 13-15**; the April 1, 2015, Idaho Administrative Bulletin, **Vol. 15-4, pages 28-30**; and the May 6, 2015, Idaho Administrative Bulletin, **Vol. 15-5, pages 53-54**.

**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 Bruce Cheeseman 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 26, 2015.

DATED this 7th Day of July, 2015.

Tamara Prisock  
DHW - Administrative Rules Unit  
450 W. State Street - 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
(208) 334-5500 phone; (208) 334-6558 fax  
E-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0101-1501  
(Only those Sections being amended are shown.)**

**110. EMS ADVISORY COMMITTEE MEMBERSHIP.**

The Statewide EMS Advisory Committee must include the following representatives: (3-29-12)

**01. Idaho Transportation Department.** One (1) representative recommended by the Idaho Transportation Department, Office of Highway Operations and Safety. (3-29-12)

**02. American College of Emergency Physicians (ACEP).** One (1) representative recommended by the Idaho Chapter of American College of Emergency Physicians (ACEP). (3-29-12)

**03. American College of Surgeons.** One (1) representative recommended by the Committee on Trauma of the Idaho Chapter of the American College of Surgeons. (3-29-12)

**04. Idaho Board of Nursing.** One (1) representative recommended by the Idaho Board of Nursing. (3-29-12)

**05. Idaho Medical Association.** One (1) representative recommended by the Idaho Medical Association. (3-29-12)

**06. Idaho Hospital Association.** One (1) representative recommended by the Idaho Hospital Association. (3-29-12)

**07. Idaho Association of Counties.** One (1) representative of local government recommended by the Idaho Association of Counties. (3-29-12)

**08. Career Third Service EMS/Ambulance Service.** One (1) representative of a Career Third Service EMS/Ambulance Service. (3-29-12)

**09. Volunteer Third Service EMS/Ambulance Service.** One (1) representative of a volunteer third

service EMS/ambulance service. (3-29-12)

**10. Third Service Nontransport EMS Service.** One (1) representative of a third service nontransport EMS service. (3-29-12)

**11. Idaho Fire Chiefs Association.** One (1) representative of a fire department-based EMS/ambulance service recommended by the Idaho Fire Chiefs Association. (3-29-12)

**12. Fire Department-Based Nontransport EMS Service.** One (1) representative of a fire department-based nontransport EMS service. (3-29-12)

**13. Air Medical Service.** One (1) representative of an air medical service. (3-29-12)

**14. Emergency Medical Technician.** One (1) Emergency Medical Technician who represents the interests of Idaho personnel licensed at that level. (3-29-12)

**15. Advanced Emergency Medical Technician.** One (1) Advanced Emergency Medical Technician who represents the interests of Idaho personnel licensed at that level. (3-29-12)

**16. Paramedic.** One (1) paramedic who represents the interests of Idaho personnel licensed at that level. (3-29-12)

**17. Administrative County EMS Director.** One (1) representative who is an Administrative County EMS Director. (3-29-12)

**18. EMS Instructor.** One (1) EMS instructor who represents the interests of Idaho EMS educators and evaluators. (3-29-12)

**19. Consumer.** One (1) Idaho citizen with experience involving EMS; (3-29-12)

**20. Private EMS Ambulance Service.** One (1) representative of a private EMS ambulance service. (3-29-12)

**21. American Academy of Pediatrics.** One (1) pediatrician who represents the interests of children in the EMS system recommended by the Idaho Chapter of the American Academy of Pediatrics. (3-29-12)

**22. Pediatric Emergency Medicine Physician.** One (1) board-certified, or equivalent, Pediatric Emergency Medicine Physician. (3-29-12)

**23. Public Health District.** One (1) representative from one (1) of Idaho's seven (7) public health districts. ( )

**111. -- 119. (RESERVED)**

**120. RESPONSIBILITIES OF THE EMS ADVISORY COMMITTEE.**  
The EMS Advisory Committee will meet at least annually, or as needed, for the purposes of: (3-29-12)

**01. ~~Reviewing~~ Policies and Procedures.** ~~Reviewing policies and procedures for provision of emergency medical services and recommending same to the EMS Bureau.~~ (3-29-12)( )

**02. ~~Establishing Standard Protocols for EMS Personnel to Respond to~~ Advance **Do Not Resuscitate (DNR) Directives.** ~~The protocols will be reviewed at least annually to determine if changes in protocol need to be made in order to reflect technological advances~~ Establishing a standard protocol for EMS personnel to respond to advance DNR directives. (3-29-12)( )**

**a.** The protocol will be reviewed at least annually to determine if changes in protocol should be made to reflect technological advances. The EMSAC must notify the Department of any changes made to the protocols.

- ( )
- b. The Department will notify Idaho EMS personnel of the DNR protocol and any subsequent changes. ( )
- c. The legal requirements for advance DNR directives are provided under Title 39, Chapter 45, Idaho Code. ( )
- 03. Reviewing Educational Curricula and Standards.** Reviewing EMS education curricula, education standards, and examination processes described in IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements," and providing their recommendations same regarding EMS education and examination to the EMS Bureau. (3-29-12)( )
- 04. Personnel Licensing Policies and Standards.** Making recommendations to the EMS Bureau regarding implementation of personnel licensing policy and standards. (3-29-12)
- 05. Reviewing Grant Applications.** Reviewing grant applications and making recommendations for eligibility and awards for the dedicated grant funds program in accordance with IDAPA 16.02.04, "Rules Governing Emergency Medical Services Account III Grants," Section 300. (3-29-12)( )
- 06. Ambulance and Nontransport Services.** Reviewing and making recommendations on the licensing of ambulance and of nontransport services in Idaho. (3-29-12)

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

**16.01.02 - EMERGENCY MEDICAL SERVICES (EMS) -- RULE DEFINITIONS**

**DOCKET NO. 16-0102-1501**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-1023, Idaho Code.

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

**Tuesday, August 11, 2015 - 10:00 a.m. MDT**

**2224 East Old Penitentiary Road  
Boise, ID 83712**

**PARTICIPATION BY WEBINAR  
(for those who are unable to attend the hearing)**

To join the webinar, go to:  
<https://global.gotomeeting.com/join/553709749>

**Use your microphone and speakers (VoIP) -- a headset is recommended. Or, call in using your telephone.**

Dial: 1 (646) 749-3122  
Access Code: 553-709-749

**Audio PIN: Shown after joining the meeting using URL above**  
Meeting ID: 553-709-749

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:

A new chapter containing EMS education requirements is being promulgated. Updates are being made to this chapter to align it with the new EMS education chapter, to related changes being made in the existing EMS personnel licensing chapter, and to recent additions to EMS statutes.

**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 negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

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 three (3) times: in the March 4, 2015, Idaho Administrative Bulletin, **Vol. 15-3, pages 13-15**; the April 1, 2015, Idaho Administrative Bulletin, **Vol. 15-4, pages 28-30**; and the May 6, 2015, Idaho Administrative Bulletin, **Vol. 15-5, pages 53-54**.

**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 Bruce Cheeseman 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 26, 2015.

DATED this 7th Day of July, 2015.

Tamara Prisock  
DHW - Administrative Rules Unit  
450 W. State Street - 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
(208) 334-5500 phone; (208) 334-6558 fax  
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**THE FOLLOWING IS THE TEXT PROPOSED FOR DOCKET NO. 16-0102-1501**  
**(Only those Sections being amended are shown.)**

**001. TITLE AND SCOPE.**

**01. Title.** The title of these rules is IDAPA 16.01.02, "Emergency Medical Services (EMS) -- Rule Definitions." (7-1-14)

**02. Scope.** These rules contain the definitions used throughout the Emergency Medical Services chapters of rules adopted by the Department. Those chapters include: (7-1-14)

**a.** IDAPA 16.01.01, "Emergency Medical Services (EMS) -- Advisory Committee (EMSAC)"; (7-1-14)

**b.** IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements"; (7-1-14)

**c.** IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements"; ( )

**d.** IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements"; and (7-1-14) ( )

**e.** IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations and Disciplinary Actions."; and (7-1-14) ( )

**f.** ~~IDAPA 16.02.03, "Emergency Medical Services."~~ (7-1-14)

**(BREAK IN CONTINUITY OF SECTIONS)**

**011. DEFINITIONS AND ABBREVIATIONS C THROUGH E.**

For the purposes of the Emergency Medical Services (EMS) chapters of rules, the following definitions apply: (7-1-14)

**01. Call Volume.** The number of requests for service that an agency either anticipated or responded to during a designated period of time. (7-1-14)

**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." (7-1-14)

**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. (7-1-14)

**04. Certification.** A credential issued ~~to by an individual by the Department~~ designated certification body for a specified period of time indicating that minimum standards have been met. (7-1-14)( )

**05. Certified EMS Instructor.** An individual approved by the Department, who has met the requirements in IDAPA 16.021.035, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements," to provide EMS education and training. (7-1-14)( )

**06. CoAEMSP, Committee on Accreditation of Educational Programs for the Emergency Medical Services Professions.** ( )

**07. Cognitive Exam.** Computer-based exam to demonstrate knowledge learned during an EMS education program. ( )

**068. 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. (7-1-14)

**09. Conflict of Interest.** A situation in which a decision by personnel acting in their official capacity is influenced by or may be a benefit to their personal interests. ( )

**10. Consolidated Emergency Communications System.** Facilities, equipment, and dispatching services directly related to establishing, maintaining, or enhancing a 911 emergency communications service defined in Section 31-4802, Idaho Code. ( )

**11. Core Content.** Set of educational goals, explicitly taught (and not taught), focused on making sure that all students involved learn certain material tied to a specific educational topic and defines the entire domain of out-of-hospital practice and identifies the universal body of knowledge and skills for emergency medical services providers who do not function as independent practitioners. ( )

**12. Course.** The specific portions of an education program that delineate the beginning and the end of an individual's EMS education. A course is also referred to as a "section" on the NREMT website. ( )

**13. Course Physician.** A physician charged with reviewing and approving both the clinical and didactic content of a course. ( )

**0714. 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. (7-1-14)

**0815. Credentialed EMS Personnel.** Individuals who are authorized to provide medical care by the EMS medical director, hospital supervising physician, or medical clinic supervising physician. (7-1-14)

**0916. 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.” (7-1-14)

~~107~~. **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.” (7-1-14)

~~118~~. **Department.** The Idaho Department of Health and Welfare. (7-1-14)

~~129~~. **Director.** The Director of the Idaho Department of Health and Welfare or his designee. (7-1-14)

~~1320~~. **Division.** The Division of Public Health, Idaho Department of Health and Welfare. (7-1-14)

~~1421~~. **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. (7-1-14)

~~1522~~. **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. (7-1-14)

~~1623~~. **Emergency Medical Responder (EMR).** An EMR is a person who: (7-1-14)

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”; (7-1-14)

b. Is licensed by the Department under Sections 56-1011 through 56-1023, Idaho Code; (7-1-14)

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 (7-1-14)

d. Practices under the supervision of a physician licensed in Idaho. (7-1-14)

~~1724~~. **Emergency Medical Services (EMS).** Under Section 56-1012(12), Idaho Code, emergency medical services or EMS is aid rendered by an individual or group of individuals who do the following: (4-11-15)

a. Respond to a perceived need for medical care in order to prevent loss of life, aggravation of physiological or psychological illness, or injury; (4-11-15)

b. Are prepared to provide interventions that are within the scope of practice as defined by the Idaho Emergency Medical Services Physician Commission (EMSPC), under IDAPA 16.02.02, “Rules of the Idaho Emergency Medical Services (EMS) Physician Commission”; (4-11-15)

c. Use an alerting mechanism to initiate a response to requests for medical care; and (4-11-15)

d. Offer, advertise, or attempt to respond as described in Section 56-1012(12), (a) through (c), Idaho Code. (4-11-15)

e. Aid rendered by a ski patroller, as described in Section 54-1804(1)(h), Idaho Code, is not EMS. (4-11-15)

~~1825~~. **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. (7-1-14)

~~19~~**26.** **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. (7-1-14)

~~20~~**7.** **EMS Bureau.** The Bureau of Emergency Medical Services (EMS) & Preparedness of the Idaho Department of Health and Welfare. (7-1-14)

~~28.~~ **EMS Education Program.** The institution or agency holding an EMS education course. ( )

~~29.~~ **EMS Education Program Director.** The individual responsible for an EMS educational program or programs. ( )

~~30.~~ **EMS Education Program Objectives.** The measurable outcome used by the program to determine student competencies. ( )

~~31.~~ **EMS Medical Director.** A physician who supervises the medical activities of licensed personnel affiliated with an EMS agency. (7-1-14)

~~32.~~ **EMS Physician Commission (EMSPC).** The Idaho Emergency Medical Services Physician Commission created under Section 56-1013A, Idaho Code, also referred to as “the Commission.” (7-1-14)

~~33.~~ **Emergency Medical Technician (EMT).** An EMT is a person who: (7-1-14)

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”; (7-1-14)

b. Is licensed by the EMS Bureau under Sections 56-1011 through 56-1023, Idaho Code; (7-1-14)

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 (7-1-14)

d. Practices under the supervision of a physician licensed in Idaho. (7-1-14)

~~34.~~ **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. (7-1-14)

**012. DEFINITIONS AND ABBREVIATIONS F THROUGH N.**

For the purposes of the Emergency Medical Services (EMS) chapters of rules, the following definitions apply: (7-1-14)

~~01.~~ **Formative Evaluation.** Assessment, including diagnostic testing, is a range of formal and informal assessment procedures employed by teachers during the learning process. ( )

~~02.~~ **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. (7-1-14)

~~03.~~ **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. (7-1-14)

~~04.~~ **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. (7-1-14)

**045.** **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. (7-1-14)

**06.** **Instructor.** Person who assists a student in the learning process and meets the requirements to obtain instructor certification. ( )

**07.** **Instructor Certification.** A credential issued to an individual by the Department for a specified period of time indicating that minimum standards for providing EMS instruction under IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements," have been met. ( )

**058.** **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. (7-1-14)

**069.** **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. (7-1-14)

**0710.** **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. (7-1-14)

**0811.** **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. (7-1-14)

**0912.** **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. (7-1-14)

**103.** **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. (7-1-14)

**114.** **Medical Supervision Plan.** The written document describing the provisions for medical supervision of licensed EMS personnel. (7-1-14)

**125.** **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. (7-1-14)

**136.** **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. (7-1-14)

**147.** **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. (7-1-14)

**158.** **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." (7-1-14)

**013. DEFINITIONS AND ABBREVIATIONS O THROUGH Z.**

For the purposes of the Emergency Medical Services (EMS) chapters of rules, the following definitions apply: (7-1-14)

**01.** Optional Module. Optional modules (OMs) are skills identified by the EMS Physician Commission that exceed the floor level Scope of Practice for EMS personnel and may be adopted by the agency medical director. ( )

**042.** **Out-of-Hospital.** Any setting outside of a hospital, including inter-facility transfers, in which the provision of EMS may take place. (7-1-14)

**023.** **Paramedic.** A paramedic is a person who: (7-1-14)

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"; (7-1-14)

b. Is licensed by the EMS Bureau under Sections 56-1011 through 56-1023, Idaho Code; (7-1-14)

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 (7-1-14)

d. Practices under the supervision of a physician licensed in Idaho. (7-1-14)

**04.** Paramedicine. Providing emergency care to sick and injured patients at the advanced life support (ALS) level with defined roles and responsibilities to be credentialed at the Paramedic level. ( )

**035.** **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. (7-1-14)

**046.** **Patient.** A sick, injured, incapacitated, or helpless person who is under medical care or treatment. (7-1-14)

**057.** **Patient Assessment.** The evaluation of a patient by EMS licensed personnel intending to provide treatment or transportation to that patient. (7-1-14)

**068.** **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. (7-1-14)

**079.** **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. (7-1-14)

**0810.** **Patient Transport.** The transportation of a patient by ambulance or air ambulance from a rendezvous or emergency scene to a medical care facility. (7-1-14)

**0911.** **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. (7-1-14)

**102.** **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. (7-1-14)

**143.** **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. (7-1-14)

~~124~~. **Prehospital.** Any setting outside of a hospital, with the exception of transfers, in which the provision of EMS may take place. (7-1-14)

~~15~~. **Psychomotor Exam.** Practical demonstration of skills learned during an EMS education course. ( )

~~136~~. **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. (7-1-14)

~~147~~. **Skills Proficiency.** The process overseen by an EMS agency medical director to verify competency in psychomotor skills. (7-1-14)

~~158~~. **State Health Officer.** The Administrator of the Division of Public Health. (7-1-14)

~~19~~. **Summative Evaluation.** End of topic or end of course evaluation that covers both didactic and practical skills application. ( )

~~1620~~. **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: (7-1-14)

a. Establishing standing orders and protocols; (7-1-14)

b. Reviewing performance of licensed personnel; (7-1-14)

c. Providing instructions for patient care via radio or telephone; and (7-1-14)

d. Other oversight. (7-1-14)

~~1721~~. **Third Service.** A public EMS agency that is neither law-enforcement nor fire-department based. (7-1-14)

~~1822~~. **Transfer.** The transportation of a patient from one (1) medical care facility to another. (7-1-14)

~~1923~~. **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. (7-1-14)

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.01.03 - EMERGENCY MEDICAL SERVICES (EMS) -- AGENCY LICENSING REQUIREMENTS

DOCKET NO. 16-0103-1501

#### 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:** A public hearing concerning this rulemaking will be held as follows:

**Tuesday, August 11, 2015 - 10:00 a.m. MDT**

**2224 East Old Penitentiary Road  
Boise, ID 83712**

**PARTICIPATION BY WEBINAR  
(for those who are unable to attend the hearing)**

To join the webinar, go to:  
<https://global.gotomeeting.com/join/553709749>

**Use your microphone and speakers (VoIP) -- a headset is recommended. Or, call in using your telephone.**

Dial: 1 (646) 749-3122  
Access Code: 553-709-749

**Audio PIN: Shown after joining the meeting using URL above**  
Meeting ID: 553-709-749

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 EMS Agency Licensing rules are being amended to align with a new chapter of rules being written that provide the education, instructor, and examination standards an individual must meet to be a licensed EMS provider in Idaho. These rules also include additions and references to rules from the repeal of IDAPA 16.02.03, "Emergency Medical Services," and the new chapter in IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructors, and Examination Requirements."

Updates have been made for Operational Declarations for prehospital, community health EMS, and air medical support. Agency records that were in the repealed chapter have also been added into these rules.

**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(2), Idaho Code, negotiated rulemaking was held under the Personnel Licensing and the Education chapters, but not specifically for EMS agencies. The changes in this rule are being made to align with the new chapter and add requirements from the repealed chapter.

**INCORPORATION BY REFERENCE:** There are no documents incorporated in this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Bruce Cheeseman 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 26, 2015.

DATED this 7th Day of July, 2015.

Tamara Prisock  
DHW - Administrative Rules Unit  
450 W. State Street - 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
(208) 334-5500 phone; (208) 334-6558 fax  
E-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 16-0103-1501  
(Only those Sections being amended are shown.)**

**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. (7-1-14)

**01. Prehospital.** The prehospital operational declaration is available to an agency ~~with that:~~ ( )

**a.** ~~Has~~ primary responsibility for responding to calls for EMS within their designated geographic coverage area: ~~and~~ (7-1-14)( )

**b.** ~~Is dispatched to prehospital emergency medical calls by a consolidated emergency communications system.~~ ( )

**02. Prehospital Support.** The prehospital support operational declaration is available to an agency that: ( )

**a.** ~~Provides~~ support under agreement to a prehospital agency having primary responsibility for responding to calls for EMS within a designated geographic coverage area: ~~and~~ (7-1-14)( )

**b.** ~~Is dispatched to prehospital emergency medical calls by a consolidated emergency communications system.~~ ( )

**03. Community Health EMS.** The community health EMS operational declaration is available to an agency with a prehospital operational declaration ~~or prehospital support 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. (7-1-14)( )

**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. (7-1-14)

**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. (7-1-14)

**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. (7-1-14)

**205. AIR MEDICAL AGENCY -- OPERATIONAL DECLARATIONS.**

An agency providing air medical services is licensed with one (1) or ~~both~~ more 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. ~~(7-1-14)~~ ( )

**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. (7-1-14)

**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. (7-1-14)

**03. Air Medical Support.** The air medical support operational declaration is available to an air medical agency that provides transportation of patients from an emergency scene to a rendezvous with a ground or air medical transport agency within its designated response area. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**300. EMS AGENCY -- GENERAL PERSONNEL REQUIREMENTS.**

Personnel must be licensed according to IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements." (7-1-14)

**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. ~~(7-1-14)~~ ( )

**02. Personnel Requirements for an Agency Utilizing Emergency Medical Dispatch.** An agency dispatched by ~~a public safety answering point (PSAP)~~ a consolidated emergency communications system 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. ~~(7-1-14)~~ ( )

**03. Personnel Requirements for Prehospital ALS.** A licensed Paramedic must be present whenever prehospital, prehospital support, or air medical transport ALS services are provided. (7-1-14)

**(BREAK IN CONTINUITY OF SECTIONS)**

**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. (7-1-14)

**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: (7-1-14)

- a. Documentation that the individual holds a current, unrestricted license to practice issued by the Board of Medicine or Board of Nursing; and (7-1-14)
- b. Documentation that the individual has successfully completed an ambulance-based clinician course; or (7-1-14)
- c. Documentation that the individual has successfully completed an EMT course. (7-1-14)

**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. (7-1-14)

**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." (7-1-14)

~~**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. (7-1-14)~~

~~**06.5. 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. (7-1-14)~~

~~**07.6. 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. (7-1-14)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**535. EMS AGENCY -- RECORDS, DATA COLLECTION, AND SUBMISSION REQUIREMENTS.** Each EMS agency must comply with the following records, data collection, and submission requirements required in IDAPA 16.02.03, "Emergency Medical Services," Section 435. (7-1-14)( )

**01. Records to be Maintained by Ambulance and Air Medical Agencies.** Each EMS ambulance and air medical agency 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: ( )

- a. Name of ambulance service; ( )
- b. Date of response; ( )
- c. Time call received; ( )

- d.** Time en route to scene; ( )
- e.** Time arrival at scene; ( )
- f.** Time service departed scene; ( )
- g.** Time arrival at hospital; ( )
- h.** Location of incident; ( )
- i.** Description of illness/injury; ( )
- j.** Description of patient management; ( )
- k.** Patient destination; ( )
- l.** Ambulance unit identification; ( )
- m.** Identification and licensure level of each ambulance crew member on the response; and ( )
- n.** Response outcome. ( )

**02. Records to Be Maintained by Non-Transport Agencies.** Each non-transport agency must maintain records of each EMS response in a form approved by the EMS Bureau. Each applicant non-transport services agency who submits 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: ( )

- a.** Identification of nontransport service; ( )
- b.** Date of response; ( )
- c.** Time call received; ( )
- d.** Time en route to scene; ( )
- e.** Time arrival at scene; ( )
- f.** Time service departed scene; ( )
- g.** Location of incident; ( )
- h.** Description of illness/injury; ( )
- i.** Description of patient management; ( )
- j.** Patient destination; ( )
- k.** Identification and licensure level of nontransport service personnel on response; and ( )
- l.** Response outcome. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**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: (7-1-14)

**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: (7-1-14)

- a. The patient has a penetrating or crush injury to head, neck, chest, abdomen, or pelvis; (7-1-14)
- b. Neurological presentation suggestive of spinal cord injury; (7-1-14)
- c. Evidence of a skull fracture (depressed, open, or basilar) as detected visually or by palpation; (7-1-14)
- d. Fracture or dislocation with absent distal pulse; (7-1-14)
- e. A glasgow coma score of ten (10) or less; (7-1-14)
- f. Unstable vital signs with evidence of shock; (7-1-14)
- g. Cardiac arrest; (7-1-14)
- h. Respiratory arrest; (7-1-14)
- i. Respiratory distress; (7-1-14)
- j. Upper airway compromise; (7-1-14)
- k. Anaphylaxis; (7-1-14)
- l. Near drowning; (7-1-14)
- m. Changes in level of consciousness; (7-1-14)
- n. Amputation of an extremity; and (7-1-14)
- o. Burns greater than twenty percent (20%) of body surface or with suspected airway compromise. (7-1-14)

**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: (7-1-14)

- a. Extremes of age; (7-1-14)
- b. Pregnancy; and (7-1-14)
- c. Patient "do not resuscitate" status *as described in IDAPA 16.02.03, "Emergency Medical Services," Section 400.* (7-1-14)(    )

**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: (7-1-14)

- a. Availability of local hospitals and regional medical centers; (7-1-14)

- b. Air medical response to the scene and transport to an appropriate hospital will be significantly shorter than ground transport time; (7-1-14)
- c. Access to time sensitive medical interventions such as percutaneous coronary intervention, thrombolytic administration for stroke, or cardiac care; (7-1-14)
- 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; (7-1-14)
- e. As an additional resource for a multiple patient incident; (7-1-14)
- f. Remote location of the patient; and (7-1-14)
- g. Local destination protocols. (7-1-14)

**(BREAK IN CONTINUITY OF SECTIONS)**

**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. (7-1-14)

**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. (7-1-14)

**02. ~~Public Safety Answering Point Dispatch~~ Consolidated Emergency Communications System.**  
An agency dispatched by ~~a public safety answering point (PSAP)~~ a consolidated emergency communications system 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. (7-1-14)(    )

**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. (7-1-14)

**(BREAK IN CONTINUITY OF SECTIONS)**

**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 at a time and date that allows efficient use of Department resources and meets the needs of the agency. (7-1-14)(    )

**970. TIMEFRAME FOR RENEWAL INSPECTIONS.**

Each agency must successfully complete an annual inspection ~~within the~~ no earlier than sixty (60) days and no later than thirty (30) days ~~period described in Sections 800 through 809 of these rules in order to obtain a renewed license prior to the expiration date of the current license.~~ (7-1-14)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

~~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. (7-1-14)~~

~~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. (7-1-14)~~

~~991~~<sup>82</sup>. -- 999. (RESERVED)

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.01.05 - EMERGENCY MEDICAL SERVICES (EMS) -- EDUCATION, INSTRUCTOR, AND EXAMINATION REQUIREMENTS

DOCKET NO. 16-0105-1501 (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 56-1023, Idaho Code.

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

**Tuesday, August 11, 2015 - 10:00 a.m. MDT**

**2224 East Old Penitentiary Road  
Boise, ID 83712**

**PARTICIPATION BY WEBINAR  
(for those who are unable to attend the hearing)**

**To join the webinar, go to:  
<https://global.gotomeeting.com/join/553709749>**

**Use your microphone and speakers (VoIP) -- a headset is recommended. Or, call in using your telephone.**

Dial: 1 (646) 749-3122  
Access Code: 553-709-749

**Audio PIN: Shown after joining the meeting using URL above  
Meeting ID: 553-709-749**

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

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

This new chapter of rules is being written to implement and provide updated initial education, instructor, and examination requirements to meet the ever-changing technology and techniques used to protect the health and safety of the public in the provision of emergency medical services (EMS). This new chapter will replace the education requirements currently found in IDAPA 16.02.03, "Emergency Medical Services."

**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 negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

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 three (3) times: in the March 4, 2015, Idaho Administrative Bulletin, **Vol. 15-3, pages 13-15**; the April 1, 2015, Idaho Administrative Bulletin, **Vol. 15-4, pages 28-30**; and the May 6, 2015, Idaho Administrative Bulletin, **Vol. 15-5, pages 53-54**.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following documents are being incorporated by reference into these rules. These documents are not being reprinted in this chapter of rules

due to their length and format and because of the cost for republication. Further, incorporation into this rule gives the manuals the force and effect of law.

1. Idaho EMS Education Standards, edition 2016-1.
2. Idaho Bureau of EMS and Preparedness EMS Education Equipment List, edition 2016-1.
3. Idaho EMS Bureau Vehicle Extrication Awareness Instructor Guidelines, edition 2016-1.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Bruce Cheeseman 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 26, 2015.

DATED this 7th Day of July, 2015.

Tamara Prisock  
DHW - Administrative Rules Unit  
450 W. State Street - 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
(208) 334-5500 phone; (208) 334-6558 fax  
E-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

**THE FOLLOWING IS THE TEXT PROPOSED FOR DOCKET NO. 16-0105-1501**

**IDAPA 16  
TITLE 01  
CHAPTER 05**

**16.01.05 - EMERGENCY MEDICAL SERVICES (EMS) -- EDUCATION, INSTRUCTOR,  
AND EXAMINATION 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 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements." ( )

**02. Scope.** These rules include criteria and requirements for education programs conducting initial and optional module EMS education, certification of instructors, certification examinations, and optional module

examinations. Continuing education requirements can be found in IDAPA16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements." ( )

**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 Department has incorporated by reference the following documents: ( )

**01. Idaho EMS Education Standards, edition 2016-1.** The Department has adopted the Idaho EMS Education Standards, edition 2016-1, and hereby incorporates these standards by reference. Copies may be obtained from the Department described in Section 005 of these rules, or online at: <http://www.IdahoEMS.org>. ( )

**02. Idaho Bureau of EMS and Preparedness EMS Education Equipment List, edition 2016-1.** The Department has adopted the Idaho Bureau of EMS and Preparedness EMS Education Equipment List, edition 2016-1, and hereby incorporates these standards by reference. Copies may be obtained from the Department described in Section 005 of these rules, or online at: <http://www.IdahoEMS.org>. ( )

**03. Idaho EMS Bureau Vehicle Extrication Awareness Instructor Guidelines, edition 2016-1.** The Department has adopted the Idaho EMS Bureau Vehicle Extrication Awareness Instructor Guidelines, edition 2016-1, and hereby incorporates these standards by reference. Copies may be obtained from the Department 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 2224 East Old Penitentiary Road, Boise, ID 83712-8249. ( )

**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's 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](http://www.idahoems.org). ( )

**006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS ACT COMPLIANCE AND REQUESTS.**

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

**02. Public Records Act.** The Department will comply with Title 74, Chapter 1, 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. -- 008. (RESERVED)**

**009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.**

Certified EMS instructors must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks," to include: ( )

**01. Initial Instructor Certification.** Individuals seeking initial instructor certification must have successfully passed a criminal history and background check under the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." ( )

**02. Reinstatement of Instructor Certification.** Individuals requesting reinstatement of instructor certification must have successfully passed a criminal history and background check under the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." Denial without the grant of an exemption under IDAPA 16.05.06 will result in denial of reinstatement of certification. ( )

**03. Additional Criminal History and Background Check.** The Department may require an updated or additional criminal history and background check at any time, without expense to the candidate, if there is cause to believe new or additional information will be disclosed. ( )

**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 EDUCATION PROGRAM AND PERSONNEL VIOLATIONS.**

Investigation of complaints and disciplinary actions for EMS education program and personnel are provided under IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions." ( )

**076. ADMINISTRATIVE ACTION IMPOSED FOR EMS INSTRUCTOR CERTIFICATION.**

Any EMS instructor certificate may be suspended, revoked, denied, or retained with conditions for noncompliance with any standard or rule. Administrative actions on an instructor certificate, imposed by the EMS Bureau for any action, conduct, or failure to act which 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. STANDARDS OF PROFESSIONAL CONDUCT FOR EMS EDUCATION PROGRAM AND EXAM PERSONNEL.**

All personnel associated with a EMS education program or exam must adhere to the following standards: ( )

**01. Professional Conduct.** EMS education program and exam personnel must uphold the dignity and honor of the profession and abide by all federal, state, and local laws and statutes. They must ensure 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. ( )

**02. Personal Relationships.** EMS education program and exam personnel must maintain a professional relationship with all students, both inside and outside the physical and virtual classroom. They must avoid conflicts of interest when accepting gifts, gratuities, favors, and additional compensation from students, colleagues, parents, patrons, or business personnel. ( )

**03. Professional Integrity.** EMS education program and exam personnel must exemplify honesty and integrity in the course of professional practice. They must refrain from the possession, use, or abuse of alcohol or illegal drugs while they are involved in the instruction of students. They must comply with state and federal laws and program policies relating to the confidentiality of student records, unless disclosure is required or permitted by law. ( )

**04. Respectful Behavior.** EMS education program and exam personnel must behave in a respectful and appropriate manner when dealing with students, colleagues, parents, patrons, and business or Department personnel, ensuring that they are always aware of their intended audience. ( )

**078. -- 099. (RESERVED)**

**EMS EDUCATION PROGRAMS  
(Sections 100 - 199)**

**100. GENERAL REQUIREMENTS FOR EMS EDUCATION PROGRAMS.**

EMS education programs must meet all requirements in these rules. A program may be approved by the Department if all requirements are met. Each program must be approved and in good standing in order for graduates of courses provided by a program to qualify for access to an Idaho EMS certification examination. ( )

**101. INSPECTION OF EMS EDUCATION PROGRAMS.**

Representatives of the Department are authorized to enter an EMS education facility at reasonable times for the purpose of assuring that an EMS education program meets the provisions of these rules. ( )

**102. EMS EDUCATION STANDARDS.**

**01. Initial Education.** Curriculum utilized for initial education must be based upon the Idaho EMS Education Standards incorporated under Section 004 of these rules. ( )

**02. Optional Module Education.** Curriculum utilized for optional module education must be based upon the Idaho EMS Education Standards incorporated under Section 004 of these rules for the higher level scope of practice in which the skills, knowledge, and competency exist in the floor of the scope of practice. ( )

**103. EMS EDUCATION PROGRAM ELIGIBILITY.**

The following entities are eligible for approval as an EMS Education Program: ( )

**01. EMS Agency.** A licensed Idaho EMS agency, or applicant for agency licensure, that has met all of the agency licensure requirements in IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements," with the exception of the personnel requirements in the case of an applicant agency. ( )

**02. Governmental Entity.** A recognized governmental entity within the State of Idaho; ( )

**03. School.** A proprietary, secondary, or post-secondary school as defined in Title 33, Idaho Code, and in accordance with IDAPA 08.01.11, "Registration of Post-Secondary Educational Institutions and Proprietary Schools"; or ( )

**04. Hospital.** An Idaho hospital as defined in IDAPA 16.03.14, "Rules and Minimum Standards for Hospitals in Idaho." ( )

**104. EMS EDUCATION PROGRAM APPROVAL REQUIREMENTS.**

The following requirements must be met in order to be approved as an EMS Education Program: ( )

**01. All Programs.** All EMS educational programs must: ( )

**a.** Have the infrastructure elements described in the Idaho EMS Education Standards; ( )

**b.** Use a curriculum that meets the Idaho EMS Education Standards; ( )

**c.** Utilize personnel to fill the roles as defined in Section 300; ( )

**d.** Provide sufficient quantities of supplies and equipment in good working order based on the curriculum and the minimum equipment list; and ( )

**e.** Have successfully completed a program review within the last three (3) years. ( )

**02. Paramedicine Programs.** Programs teaching paramedicine must be accredited by, or have a Letter of Review (LoR) from, the Committee on Accreditation of Educational Programs for the EMS Professions (CoAEMSP). A representative of the Department may attend the CoAEMSP site visit. Documentation of official correspondence between CoAEMSP and the program must be provided to the Department within thirty (30) days. ( )

**105. EMS EDUCATION PROGRAM ACCOUNTABILITY.**

The Department will hold each EMS Education Program to the standards and requirements in these rules and the declarations made by the program on their most recent approved application. ( )

**106. EMS EDUCATION PROGRAM ADMINISTRATION.**

**01. General.** Each EMS Education Program must: ( )

**a.** Register and maintain program information with the Department and the certification agency. ( )

**b.** Respond to all program-specific Department inquiries within fifteen (15) days; ( )

**c.** Submit supporting documentation requested during an audit to the Department within twenty-one (21) days of the request; ( )

**d.** Ensure that all program personnel are familiar with and conduct business according to these rules; and ( )

**e.** Notify the Department within fifteen (15) days of any sanction taken against an instructor that affects his ability to teach for the program. ( )

**02. Policies and Procedures.** The EMS Education Program must provide students with their policies and procedures for the following: ( )

**a.** Program-specific student enrollment eligibility requirements; ( )

**b.** Receipt and resolution of complaints, to include the Bureau's complaint process; ( )

**c.** Process for students who do not show adequate progress; and ( )

**d.** Program-specific requirements for successful completion of the course. ( )

**107. EMS EDUCATION PROGRAM COURSE ADMINISTRATION.**

**01. Education.** In order to prepare students to demonstrate the expected competencies, the EMS Education Program must: ( )

**a.** Deliver didactic education and psychomotor training that meets the objectives of the approved curriculum; ( )

**b.** Establish and maintain hospital/clinical and field/internship experience agreements to ensure student access in accordance with the Idaho EMS Education Standards; ( )

**c.** The majority of initial education must be taught by certified EMS instructors. ( )

**02. Evaluation.** In order to assure that students can demonstrate the expected competencies, the EMS Education Program must: ( )

**a.** Establish and enforce pass/fail criteria that include evaluation of student performance and competency during labs, didactic, clinical, and field internship training; ( )

**b.** Provide formative evaluations during a course to monitor the progress of students; and ( )

**c.** Provide a formal summative evaluation that includes a variety of clinical behaviors and judgements at the end of the course to measure the student's mastery of the objectives of the approved curriculum. ( )

**108. EMS EDUCATION PROGRAM COURSE DOCUMENTATION.**

**01. Records to be Submitted.** Each EMS Education Program must submit the following documentation to the Department as described below and in the format provided by the Department: ( )

**a.** Application for Course Registration Number (CRN) at least thirty (30) days prior to beginning a new course; ( )

**b.** Course beginning record (roster) within ten (10) days after the course beginning date; ( )

**c.** EMR and EMT Programs: Declare date and location of the formal summative evaluation within the (10) days immediately following the date the course begins; ( )

**d.** AEMT and Paramedic Programs: Proposed dates and locations of the didactic and psychomotor certification examinations within ten (10) days of the course beginning date; and ( )

**e.** Course completion record (roster) within ten (10) days after the student's course completion date. ( )

**02. Records to be Maintained.** Each EMS Education Program must maintain documentation of the following: ( )

**a.** Student competence in all areas listed in the Idaho EMS Education Standards for the level being taught; and ( )

**b.** Student attendance in all didactic instruction, skills laboratories, hospital/clinical experience, and field experience. ( )

**03. Records Retention.** All documentation related to a course or program must be retained for a minimum of five (5) years in a retrievable format. ( )

**109. -- 199. (RESERVED)**

**CRITERIA FOR EMS EDUCATION**  
**(Sections 200 - 299)**

**200. INITIAL EMS EDUCATION REQUIREMENTS.**

**01. Content.** ( )

**a.** Idaho-Specific Content. All initial EMS courses must include the following Idaho-specific content, developed professionally and approved by the Department, if available: ( )

i. Physician Order for Scope of Treatment (POST); ( )

ii. Safe Haven; ( )

iii. Landing Zone Officer; and ( )

iv. Extrication Awareness. ( )

**b.** National Content. All initial EMS courses must include the following national content: ( )

i. Incident Command System ICS-100 and ICS-700; and ( )

ii. HazMat Awareness. ( )

**02. Consistency with Scope of Practice.** All curricula must be consistent with the Idaho scope of practice for licensed personnel as set forth in the EMS Physician Commission Standards Manual incorporated under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission," which aligns with the clinical level of the course. ( )

**03. Consistency with State and National Standards.** All curricula must be consistent with Idaho EMS Education Standards incorporated under Section 004 of these rules, and the National EMS Scope of Practice Model. ( )

**201. -- 209. (RESERVED)**

**210. OPTIONAL MODULE EMS EDUCATION.**

**01. Consistency with Scope of Practice.** All optional module curricula must be consistent with the Idaho scope of practice for licensed personnel as set forth in the EMS Physician Commission Standards Manual, incorporated under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission," which aligns with the clinical level of the course. ( )

**02. Consistency with State and National Standards.** All optional module curricula must be consistent with Idaho EMS Education Standards incorporated under Section 004 of these rules, and the National EMS Scope of Practice Model. ( )

**211. -- 299. (RESERVED)**

**EMS EDUCATION PROGRAM PERSONNEL REQUIREMENTS,**  
**QUALIFICATIONS, AND RESPONSIBILITIES**  
**(Sections 300-399)**

**300. REQUIRED PERSONNEL FOR EMS EDUCATION PROGRAMS.**

**01. Program Director.** Each program must identify an individual to serve as the Program Director. The Program Director may also serve as teaching faculty provided that faculty qualifications are met. ( )

**02. Teaching Faculty.** Each program must identify a sufficient number of teaching faculty who meet the qualifications described below in Subsections 301.02 and 301.03 of these rules. ( )

**03. Course Physician.** Each program must identify an individual to serve as the course physician. The course physician may also serve as teaching faculty, provided that faculty qualifications are met. ( )

**301. EMS EDUCATION PROGRAM PERSONNEL QUALIFICATIONS.**

**01. Program Director.** Program Directors must meet the following qualifications: ( )

**a.** Have completed an Education Program Orientation Course within the previous twenty-four (24) months. ( )

**b.** Have knowledge of current Idaho EMS Education Standards and the requirements for state certification and licensure. ( )

**02. Instructor.** Instructors must possess a current instructor certification issued by the Department. ( )

**03. Adjunct Faculty or Guest Lecturers.** Adjunct faculty and guest lecturers must be authorized by the course physician based on credentials, education, or expertise that corresponds to the knowledge and skill objectives they are teaching. ( )

**04. Course Physician.** Course physicians must meet the following qualifications: ( )

**a.** Be a Doctor of Osteopathy (DO) or Medical Doctor (MD) currently licensed to practice medicine with experience and current knowledge of emergency care of acutely ill and injured patients; and ( )

**b.** Have knowledge or experience in the delivery of out-of-hospital emergency care, including the proper care and transport of patients, medical direction, and quality improvement in out-of-hospital care. ( )

**302. EMS EDUCATION PROGRAM PERSONNEL RESPONSIBILITIES.**

An individual can have multiple personnel responsibilities, but must meet the applicable personnel requirements under Section 301 of these rules and fulfill all the responsibilities of each position they fill. ( )

**01. Program Director.** The program director's responsibilities include: ( )

**a.** Administrative oversight of the program; ( )

**b.** Ensuring that the program remains in compliance with these rules; and ( )

**c.** Serving as the program's point of contact for the Department, or for a national EMS certification body, or both. ( )

**02. Instructor.** The instructor's responsibilities include: ( )

**a.** Delivery of didactic and psychomotor education that satisfies the curriculum objectives; ( )

**b.** Documentation of student performance and competency in accordance with the standards defined by the program; ( )

**c.** Following program policies, requirements, and these rules; ( )

**d.** Modeling positive behaviors and serving as a role model for students. ( )

**03. Course Physician.** The course physician's responsibilities are to provide: ( )

- a. Medical oversight for all medical aspects of instruction; and ( )
- b. Cooperative involvement with the program director. ( )

**303. -- 399. (RESERVED)**

**EMS INSTRUCTOR CERTIFICATION  
(Sections 400-499)**

**400. EMS INSTRUCTOR CERTIFICATION REQUIREMENTS.**

**01. Instructor Certification is Required.** In order to serve as an EMS instructor, an individual must possess a current EMS instructor certificate issued by the Department. ( )

**02. Instructor Certification Requirements.** An individual applying for and meeting the requirements defined in this section will be issued an initial EMS instructor certificate. The requirements for initial EMS instructor certification are: ( )

- a. Have successfully passed an Idaho criminal history and background check; ( )
- b. Have completed a Department-sponsored EMS Education Program Orientation Course within the preceding twenty-four (24) months; ( )
- c. Have completed a course that meets the requirements of an Adult Methodology Course as defined in Section 404 of these rules; ( )
- d. Hold a current EMS license or EMS certificate at or above the instructor level requested; and ( )
- e. Have held an EMS license or EMS certificate at or above the level of instruction requested for a minimum of three (3) years. ( )

**03. Duration of Certificate.** EMS instructor certificates are good for up to three (3) years and will be issued with an expiration date of June 30 no more than three (3) years after the date the application was approved by the Department. ( )

**401. EMS INSTRUCTOR CERTIFICATE RENEWAL.**

An individual applying for and meeting the EMS instructor certificate requirements defined in this rule will be issued a renewed EMS instructor certificate. To renew your instructor certificate you must: ( )

**01. Submit an Application.** Submit an application for EMS instructor recertification in the format provided by the Department prior to the expiration date of the current certificate. Certified EMS instructors may submit the renewal application and documentation to the EMS Bureau up to six (6) months prior to the current expiration date of the instructor certificate. ( )

**02. Teaching Time.** Document twenty-four (24) hours of teaching time during the current certification period. ( )

**03. Continuing Education.** Complete eight (8) hours of continuing education specific to adult education during the current certification period. ( )

**04. Education Program Orientation Course.** Complete a Department-sponsored program orientation course within their certification cycle. The program orientation course can be counted as instructor continuing education. ( )

**05. License or Certificate.** Possess a current Idaho EMS personnel license, a current Idaho certificate of eligibility, or a current national certification at or above the level of instructor certificate. ( )

**402. LAPSED EMS INSTRUCTOR CERTIFICATE.**

**01. Timely Submission.** An application is considered timely when it is submitted to the Department prior to the expiration date of the EMS instructor certificate being renewed. ( )

**02. Failure to Submit.** An EMS instructor certificate will expire if an instructor fails to submit a complete and timely renewal application. ( )

**03. No Grace Period.** The Department will not grant grace periods or extensions to an expiration date. ( )

**04. Application Under Review.** Provided the instructor submitted a timely renewal application, an EMS instructor certificate will not lapse while under review by the Department. ( )

**05. Additional Information.** The Department may request additional information from the instructor to address an application that was found to be incomplete or otherwise non-compliant with these rules. The Department will send the request to the instructor's last known address. The instructor has twenty-one (21) days from the date of notification to respond to the Department after which the certificate will be considered lapsed. ( )

**06. Reinstatement of a Lapsed Certificate.** Personnel with a lapsed EMS instructor certificate must complete the requirements listed in Subsection 400.02 of these rules to reinstate their instructor certificate. ( )

**403. CERTIFICATION OF CURRENTLY APPROVED EMS INSTRUCTORS.**

**01. Expiration of Approved Instructor Status.** EMS instructor certificates issued prior to July 1, 2016, will expire on June 30, 2019. ( )

**02. Certification Process.** An EMS instructor approved prior to July 1, 2016, must submit an application for renewal to the Department prior to June 30, 2019, in order to maintain an EMS instructor certificate. ( )

**03. Certificate Requirements.** Currently approved EMS instructors who wish to maintain EMS instructor certification must meet the following requirements: ( )

**a.** Have successfully passed an Idaho criminal history and background check; ( )

**b.** Have completed a Department-sponsored Education Program Orientation Course orientation course within the preceding twenty-four (24) months; ( )

**c.** Hold a current EMS license or EMS certificate at or above the instructor level requested; and ( )

**d.** Have held an EMS license or EMS certificate at or above the level of instruction requested for a minimum of three (3) years. ( )

**04. Duration of Certificate.** EMS instructor certificates are good for up to three (3) years and will be issued with an expiration date of June 30 no more than three (3) years after the date the application was approved by the Department. ( )

**404. ADULT METHODOLOGY REQUIREMENTS FOR EMS INSTRUCTORS.**

Adult methodology requirements consist of completion of one (1) or more courses, developed professionally and approved by the Department, based on content that includes the following instructional topics: ( )

**01. The Adult Learner.** ( )

- 02. Goals and Objectives. ( )
- 03. Learning Styles. ( )
- 04. Lesson Plans. ( )
- 05. Teaching Resources. ( )
- 06. Teaching Aids. ( )
- 07. Teaching Methods. ( )
- 08. Measurement and Evaluation Techniques. ( )
- 09. Remediation, Communication, and Feedback. ( )
- 405. -- 499. (RESERVED)

**EMS EXAMINATIONS**  
**(Sections 500 through 599)**

**500. STANDARDIZED EMS CERTIFICATION EXAMINATIONS.**

A graduate of an EMS course must successfully complete psychomotor and cognitive certification examinations in order to qualify for EMS personnel licensure under IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements." ( )

**01. EMR and EMT Psychomotor Examination.** The psychomotor certification examination requirement for EMR and EMT course graduates can be met by any of the following: ( )

**a.** Successful completion of the end-of-course examination described in Subsection 107.02.c. of these rules. ( )

**b.** Successful completion of a level-appropriate psychomotor examination administered by the Department. ( )

**02. AEMT and Paramedic Psychomotor Examination.** The psychomotor certification examination requirement for AEMT and Paramedic course graduates can only be met by successfully completing a formal Department-sponsored certification psychomotor examination. ( )

**03. Cognitive Examination.** The cognitive certification examination requirement for all levels of course graduates can only be met by successfully completing the Idaho-approved certification cognitive examination. ( )

**501. OPTIONAL MODULE EMS EXAMINATIONS.**

Psychomotor and cognitive examinations must be completed at the EMR and EMT levels once didactic education and training are successfully completed, as described in the EMS Physician Commission Standards Manual incorporated under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." ( )

**502. EMS EXAM APPLICATIONS.**

An organization other than the educational program that wishes to host a Department-administered examination must notify the Department at least sixty (60) days in advance of the proposed exam date. Educational programs must notify the Department in accordance with Section 108 of these rules. ( )

**503. -- 998. (RESERVED)**

**999. OTHER VIOLATIONS THAT MAY RESULT IN FORMAL ADMINISTRATIVE ACTION.**

**01. Unprofessional Conduct.** Any act that violates the standards of professional conduct in Section 077 of these rules. ( )

**02. Failure to Maintain Standards of Knowledge, Proficiency, or Both.** Failure to maintain standards of knowledge, or proficiency, or both, as required under these rules as well as: ( )

**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." ( )

**03. Mental Incompetency.** A lawful finding of mental incompetency by a court of competent jurisdiction. ( )

**04. Impairment of Function.** Performance of duties under an EMS instructor certificate while under the influence of alcohol, an illegal substance, or a legal drug or medication causing impairment of function. ( )

**05. 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." ( )

**06. Discipline, Restriction, Suspension, or Revocation.** Discipline, restriction, suspension, or revocation by any other jurisdiction. ( )

**07. 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. ( )

**08. Falsification of Applications or Reports.** The submission of fraudulent or false information in any report, application, or documentation to the EMS Bureau. ( )

**09. Attempting to Obtain a Certificate by Means of Fraud.** Misrepresentation in an application, or documentation, for certification by means of concealment of a material fact. ( )

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

### **16.01.07 - EMERGENCY MEDICAL SERVICES (EMS) -- PERSONNEL LICENSING REQUIREMENTS**

**DOCKET NO. 16-0107-1501**

#### **NOTICE OF RULEMAKING - VACATION OF PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the proposed rulemaking previously initiated under this docket. The action is authorized pursuant to Sections 56-1011 through 56-1023, Idaho Code.

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

This proposed rulemaking is being vacated and is being replaced with a revised proposed rulemaking that is being promulgated under Docket 16-0107-1502 and published in this Bulletin following this notice.

The temporary rules that were adopted under this docket remain in effect until the end of the next legislative session in 2016, unless rescinded. The temporary and proposed rules were published in the January 7, 2015, Idaho Administrative Bulletin, [Vol. 15-1, pages 107 through 117](#).

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this vacation of the proposed rulemaking, contact Bruce Cheeseman at (208) 334-4000.

DATED this 24th Day of July, 2015.

Tamara Prisock  
DHW - Administrative Rules Unit  
450 W. State Street - 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
(208) 334-5500 phone; (208) 334-6558 fax  
E-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.01.07 - EMERGENCY MEDICAL SERVICES (EMS) -- PERSONNEL LICENSING REQUIREMENTS

DOCKET NO. 16-0107-1502

#### 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:** A public hearing concerning this rulemaking will be held as follows:

**Tuesday, August 11, 2015 - 10:00 a.m. MDT**

**2224 East Old Penitentiary Road  
Boise, ID 83712**

**PARTICIPATION BY WEBINAR  
(for those who are unable to attend the hearing)**

To join the webinar, go to:  
<https://global.gotomeeting.com/join/553709749>

**Use your microphone and speakers (VoIP) -- a headset is recommended. Or, call in using your telephone.**

Dial: 1 (646) 749-3122  
Access Code: 553-709-749

**Audio PIN: Shown after joining the meeting using URL above**  
Meeting ID: 553-709-749

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 EMS Personnel Licensing rules are being amended to align with a new chapter of rules being written that provide the education, instructor, and examination standards an individual must meet to be a licensed EMS provider in Idaho. These rules also include temporary rule changes for continuing education venues and licensing renewal cycle requirements that were extended by the 2015 Legislature. For consistency, this chapter includes references and sections from the repeal of IDAPA 16.02.03, "Emergency Medical Services," and the new chapter in IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructors, and Examination Requirements."

**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(2), Idaho Code, negotiated rulemaking was not held. However, the Department held a number of meetings around the state with EMS personnel and agencies. The changes in this rule concerning continuing education were based on concerns voiced during those meetings and required the Department to amend these rules prior to the end of the current licensure period.

**INCORPORATION BY REFERENCE:** There are no documents incorporated in this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Bruce Cheeseman 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 26, 2015.

DATED this 7th Day of July, 2015.

Tamara Prisock  
DHW - Administrative Rules Unit  
450 W. State Street - 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
(208) 334-5500 phone; (208) 334-6558 fax  
E-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 16-0107-1502  
(Only those Sections being amended are shown.)**

**004. INCORPORATION BY REFERENCE.**

~~The Department has incorporated by reference the "Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual," edition 2012-1. Copies of this Standards Manual may be obtained from the EMS Bureau described in Section 005 of these rules, or online at: <http://www.emspe.dhw.idaho.gov>. No documents have been incorporated by reference into these rules.~~ (3-29-12)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS ACT COMPLIANCE AND REQUESTS.**

**01. Confidentiality of Records.** Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (3-29-12)

**02. Public Records Act.** The Department will comply with ~~Sections 9-337 through 9-350~~ Title 74, Chapter 1, 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. (3-29-12)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**075. INVESTIGATION OF COMPLAINTS FOR PERSONNEL LICENSING VIOLATIONS.**

Investigation of complaints and disciplinary actions for personnel licensing are provided under IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions." ( )

**076. ADMINISTRATIVE ACTION IMPOSED FOR LICENSE OR CERTIFICATION.**

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 imposed by the EMS Bureau for any action, conduct, or failure to act which 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." ( )

**0757. STANDARDS OF PROFESSIONAL CONDUCT FOR EMS PERSONNEL.**

**01. Method of Treatment.** EMS personnel must practice medically acceptable methods of treatment and must not endeavor to extend their practice beyond their competence and the authority vested in them by the medical director. EMS personnel must not perform any medical procedure or provide medication that deviated 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)( )

**02. Knowledge and Proficiency.** EMS personnel must maintain standards of knowledge and proficiency as required by this chapter of rules and IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." ( )

~~**02. Commitment to Self-Improvement.** *EMS personnel must continually strive to increase and improve their knowledge and skills and render to each patient the full measure of their abilities.* (3-29-12)~~

**03. Respect for the Patient.** EMS personnel must provide all services with respect for the dignity of the patient, unrestricted by considerations of social or economic status, personal attributes, or the nature of health problems. (3-29-12)

**04. Confidentiality.** EMS personnel must hold in strict confidence all privileged information concerning the patient except as disclosure or use of this information is permitted or required by law or Department rule. (3-29-12)

**05. Conflict of Interest.** EMS personnel must not accept gratuities for preferential consideration of the patient and must guard against conflicts of interest. (3-29-12)

**06. Professionalism.** EMS personnel must uphold the dignity and honor of the profession and abide by its ethical principles and ~~should~~ must be familiar with existing laws governing the practice of emergency medical services and comply with those laws. EMS personnel must never perform duties of the profession while under the influence of alcohol, illegal substances, or legal drugs or medication causing impairment of function. (3-29-12)( )

**07. Cooperation and Participation.** EMS personnel must cooperate with other health care professionals and participate in activities to promote community and national efforts to meet the health needs of the public. (3-29-12)

**08. Ethical Responsibility.** EMS personnel must refuse to participate in unethical procedures, and assume the responsibility to expose incompetence or unethical conduct of others to the appropriate authority in a proper and professional manner. Misrepresentation in an application or documentation for licensure by means of concealment of a material fact is a violation of ethical responsibility. (3-29-12)( )

**09. Integrity.** EMS personnel must act with honesty and integrity and assure that reports, applications and documentation for which they are responsible are free of fraudulent and false information. ( )

~~0768.~~ -- ~~0989.~~ (RESERVED)

**090. ADVANCE DO NOT RESUSCITATE (DNR) DIRECTIVES.**

Licensed EMS personnel must follow the DNR protocol established by the Department. ( )

**091. -- 099. (RESERVED)**

(BREAK IN CONTINUITY OF SECTIONS)

**106. TIME FRAME FOR PERSONNEL LICENSURE AFTER SUCCESSFUL COMPLETION OF EDUCATION COURSE.**

An individual who has successfully completed an EMS education course is eligible to attempt the *certification* standardized examination for the appropriate level of licensure. (3-29-12)( )

**01. Complete Standardized *Certification* Examination.** A candidate must successfully complete all components of the standardized *certification* examination in a twelve (12) month period within twenty-four (24) months of completing an EMS training course in order to be eligible for an Idaho EMS personnel license. (3-29-12)( )

**02. *Certification* Standardized Examination Not Completed.** If all components of the standardized *certification* examination are not successfully completed in a twelve (12) month period within twenty-four (24) months of course completion, the candidate must repeat the initial training course and all components of the *certification* standardized examination in order to be eligible for an Idaho EMS personnel license. (3-29-12)( )

**107. -- 109. (RESERVED)**

**110. INITIAL PERSONNEL LICENSURE.**

Upon successful completion of an approved education course recognized by the EMS Bureau under IDAPA 16.021.035, "Emergency Medical Services -- Education, Instructor, and Examination Requirements," an individual may apply to the EMS Bureau for licensure. The candidate must meet the following: (3-29-12)( )

**01. Candidate Age Requirements.** An individual applying for licensure must meet the following age requirements: (3-29-12)

**a.** An EMR and EMT candidate must be either sixteen (16) or seventeen (17) years old with parental or legal guardian consent, or eighteen (18) years old. (3-29-12)

**b.** An AEMT and Paramedic candidate must be eighteen (18) year old. (3-29-12)

**02. Declaration of Previous Applications and Licensures.** A candidate must declare each state or jurisdiction in which he has applied for, been denied, or held an EMS license or certification. (3-29-12)

**03. Authorization for Release of Information.** A candidate must provide authorization for the EMS authority in other states or jurisdictions to release the candidate's registration, licensure, and certification information to the Idaho EMS Bureau. (3-29-12)

**04. Provide Current Affiliation with EMS Agency.** A candidate must declare all organizations in which they are allowed to practice as licensed personnel. A candidate must have a current affiliation with a licensed EMS agency that functions at, or above, the level of licensure being sought by the candidate. (3-29-12)

**05. Valid Identification.** A candidate must have a valid state driver's license, an Idaho identification card issued by a county driver's license examining station, or an identification card issued by the Armed Forces of the United States. (3-29-12)

**06. Criminal History and Background Check.** A candidate must successfully complete a criminal history and background check according to the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." Denial without the grant of an exemption under the provisions in IDAPA 16.05.06, "Criminal History and Background Checks," will result in denial or revocation of licensure. (3-29-12)

**07. Pass Standardized Examination.** A candidate must successfully complete the standardized examination for the level of licensure on the application required under IDAPA 16.021.035, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements." (3-29-12)( )

**a.** A candidate for EMR licensure must have successfully completed the standardized *certification*

examination at the EMR level or higher within the preceding thirty-six (36) months. (3-29-12)( )

b. A candidate for EMT licensure must have successfully completed the standardized *certification* examination at the EMT level or higher within the preceding thirty-six (36) months. (3-29-12)( )

c. A candidate for AEMT licensure must have successfully completed the standardized *certification* examination at the AEMT level or higher within the preceding twenty-four (24) months. (3-29-12)( )

d. A candidate for Paramedic licensure must have successfully completed the standardized *certification* examination at the Paramedic level within the preceding twenty-four (24) months. (3-29-12)( )

**08. Standardized Exam Attempts For Initial Licensure.** A candidate for initial licensure is allowed to attempt to successfully pass the standardized exam as follows: (3-29-12)

a. An EMR candidate is allowed three (3) attempts to pass the exam, after which the initial EMR course must be successfully completed again before another three (3) attempts are allowed. (3-29-12)

b. An EMT candidate is allowed three (3) attempts to pass the exam, after which twenty-four (24) hours of remedial education must be successfully completed before another three (3) attempts are allowed. (3-29-12)

c. An AEMT candidate is allowed three (3) attempts to pass the exam, after which thirty-six (36) hours of remedial education must be successfully completed before another three (3) attempts are allowed. (3-29-12)

d. A Paramedic candidate is allowed three (3) attempts to pass the exam, after which forty-eight (48) hours of remedial education must be successfully completed before another three (3) attempts are allowed. (3-29-12)

**09. Submit Required Licensure Fee.** A candidate must submit the applicable initial licensure fee provided in Section 111 of these rules. A candidate for EMR or EMT level of licensure has no fee requirement. (3-29-12)

**(BREAK IN CONTINUITY OF SECTIONS)**

**116. PERSONNEL LICENSE TRANSITION.**

Between the years of 2011 and 2016, the scope of practice and the accompanying license levels for EMS personnel will change. The scope of practice for licensed EMS personnel is provided in [the IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services \(EMS\) Physician Commission Standards Manual incorporated by reference under Section 004 of these rules."](#) Personnel licensed at the AEMT level can opt to either transition to the AEMT-2011 level, or they may remain at the AEMT-1985 level. In order to renew a license, personnel licensed at the EMR, EMT, or Paramedic level must transition and meet the following requirements. (3-29-12)( )

**01. General Transition Requirements for Licensed Personnel.** Licensed personnel transitioning to a new licensure level must: (3-29-12)

a. Successfully complete an Idaho-approved transition course appropriate for the level of licensure; (3-29-12)

b. Provide documentation of verification by the course physician of competency in the knowledge and skills identified in the appropriate transition course curriculum; and (3-29-12)

c. Include proof of completion of transition requirements with the license renewal application. All other license renewal requirements listed in Section 120 of these rules must be completed. The transition course may be counted towards the renewal continuing education requirements. (3-29-12)

~~**02. Transition Options Specific for Personnel Licensed at the AEMT Level.** Personnel licensed at the AEMT level have options specific to transitioning as follows: (3-29-12)~~

~~a.~~ *In addition to the general transition requirements under Subsection 116.01 of this rule, personnel licensed at the AEMT level may choose to transition to the AEMT-2011. To transition to the AEMT-2011 level, the applicant must successfully pass the Idaho-approved written and practical examinations for that level of licensure by the deadlines provided in Subsection 116.03.b of this rule. (3-29-12)*

~~b.~~ *Personnel licensed at the AEMT level who choose not to complete the transition requirements according to Subsection 116.03.b. of this rule, will be allowed to renew their personnel license at the AEMT 1985 level, if all other license renewal requirements listed in Section 120 of these rules are met. (3-29-12)*

**032.** **Application Deadlines for Transition of Licensed Personnel.** Licensed personnel who choose to transition must submit an “EMS Personnel License Transition Application” according to the following deadline dates:

a. For personnel licensed at the EMR and EMT levels, an application for transition must be submitted after January 1, 2012, and before ~~September 30~~, March 30, 2017, according to the effective date of the initial license or renewal date provided in the table below:

Table 116.032.a. PERSONNEL LICENSED AT EMR AND EMT LEVELS - TRANSITION DEADLINE DATES	
<del>Effective Date of Initial License</del> <del>April 1, 2011 – September 30, 2011</del> <del>October 1, 2011 – December 31, 2011</del>	<del>Date Transition Requirements MUST be Completed</del> <del>September 30, 2014</del> <del>March 31, 2015</del>
<b>Effective Date of Renewed License</b> <del>April 1, 2011</del> <del>October 1, 2011</del> <del>April 1, 2012</del> <del>October 1, 2012</del> <del>April 1, 2013</del> <del>October 1, 2013</del> <u>April 1, 2014</u>	<b>Date Transition Requirements MUST be Completed</b> <del>March 31, 2014</del> <del>September 30, 2014</del> <del>March 31, 2015</del> <del>September 30, 2015</del> <del>March 31, 2016</del> <del>September 30, 2016</del> <u>March 31, 2017</u>

~~(3-29-12)~~(    )

~~b.~~ *For personnel licensed at the AEMT and Paramedic levels, an application for transition must be submitted after January 1, 2013, and before September 30, 2015, according to the effective date of the initial license or renewal date provided in the table below:*

Table 116.03.b.- PERSONNEL LICENSED AT AEMT AND PARAMEDIC LEVELS – TRANSITION DEADLINE DATES	
<del>Effective Date of Initial License</del> <del>April 1, 2012 – September 30, 2012</del> <del>October 1, 2012 – December 31, 2012</del>	<del>Date Transition Requirements MUST be Completed</del> <del>September 30, 2014</del> <del>March 31, 2015</del>

<del>Table 116.03.b-</del> <del>PERSONNEL LICENSED AT AEMT AND PARAMEDIC LEVELS—TRANSITION DEADLINE DATES</del>	
<del>Effective Date of Renewed License</del>	<del>Date Transition Requirements MUST be Completed</del>
<del>April 1, 2012</del>	<del>March 31, 2014</del>
<del>October 1, 2012</del>	<del>September 30, 2014</del>
<del>April 1, 2013</del>	<del>March 31, 2015</del>
<del>October 1, 2013</del>	<del>September 30, 2015</del>

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

**043. Early Transition of Licensed Personnel.** Licensed personnel who meet all transition requirements and choose to transition prior to their license renewal date will be issued a license as follows: (3-29-12)

a. Continuing education completed between the effective date of the pre-transition license and the expiration date of the transitioned license may be used to meet requirements listed in Section 120 of these rules for renewal of the transition license; (3-29-12)

b. The new license will have the same expiration date as the current license; and (3-29-12)

c. The new license will have a new effective date, based on the date the transition was approved by the EMS Bureau. (3-29-12)

117. -- 119. (RESERVED)

**120. PERSONNEL LICENSE RENEWAL.**

Licensed personnel must provide documentation that they meet the following requirements: (3-29-12)

**01. Documentation of Affiliation with EMS Agency.** A candidate applying for renewal of licensure must be affiliated with a licensed EMS agency which functions at, or above, the level of licensure being renewed. Documentation that the license holder is currently credentialed or undergoing credentialing by an affiliating EMS agency medical director must be submitted as assurance of affiliation for license renewal. (3-29-12)

**02. Documentation of Continuing Education for Level of Licensure Renewal.** A candidate for renewal of licensure must provide documentation of continuing education consistent with the license holder's level of licensure. All continuing education and skill proficiency requirements must be completed under the provisions in Sections 300 through ~~332~~5 of these rules. The time frame for continuing education courses must meet the following requirements: ~~(3-29-12)( )~~

a. All continuing education and skill proficiency requirements for renewal of an initial Idaho personnel license must be completed as follows: (3-29-12)

i. For EMR or EMT, within the thirty-six (36) months preceding ~~renewal expiration.~~ ~~(3-29-12)( )~~

ii. For AEMT and Paramedic, within the twenty-four (24) months preceding ~~renewal expiration.~~ ~~(3-29-12)( )~~

b. All continuing education and skill proficiency requirements for successive licenses must be completed between the effective and expiration dates of the license being renewed, or according to Section 116 ~~or 125~~ of these rules. ~~(3-29-12)( )~~

c. All continuing education and skill proficiency requirements for renewal of licenses obtained through conversion of a Certificate of Eligibility must be completed as follows: (3-29-12)

i. For EMR or EMT, within the thirty-six (36) months preceding ~~renewal expiration.~~ ~~(3-29-12)( )~~

- ii. For AEMT and Paramedic, within the twenty-four (24) months preceding ~~renewal~~ expiration. (3-29-12)( )

d. A licensee certified by a national EMS certification body may petition the Department to review the certification standards under which the licensee was certified. The Department may waive specific duplicated continuing educational requirements where appropriate. When an external education requirement is found to be more rigorous than these rules, the Department may elect to renew a license based on that education. ( )

**03. Declarations of Convictions or Adjudications.** A candidate for renewal of licensure must provide a declaration of any misdemeanor or felony adjudications. (3-29-12)

**04. Time Frame for Application of Licensure Renewals.** Documentation of license renewal requirements is due to the EMS Bureau prior to the license expiration date. Failure to submit a complete renewal application by the license expiration date renders the license invalid and the individual must not practice or represent himself as a license holder. (3-29-12)

**05. Submit Required Licensure Renewal Fees.** A candidate must submit the applicable license renewal fee provided in Section 111 of these rules. A candidate for EMR or EMT level of licensure has no fee requirement. (3-29-12)

**121. -- 124. (RESERVED)**

**125. SUBMISSION OF EMS PERSONNEL LICENSURE APPLICATION AND DOCUMENTATION.** Each EMS personnel license holder or candidate is responsible for meeting license renewal requirements and submitting completed license renewal documentation to the EMS Bureau by the current license expiration date. (3-29-12)

- 01. Earliest Submission Date for License Renewal.** ( )

a. Licensed EMS personnel may submit renewal application and documentation to the EMS Bureau up to six (6) months prior to the current license expiration date. (3-29-12)( )

b. Continuing education (CE) taken after early submission of a renewal application may be counted as CE for the next licensure cycle. Prior to the expiration date of the current license, the licensee must submit written notification to the EMS Bureau of the intention to use those CE hours for the next licensure cycle. ( )

**02. EMS Personnel License Expiration Date Falls on a Non-Work Day.** When a license expiration date falls on a weekend, holiday, or other day the EMS Bureau is closed, the EMS Bureau will accept applications until the close of the next regular business day following the non-work day. (3-29-12)

**(BREAK IN CONTINUITY OF SECTIONS)**

**131. REINSTATEMENT OF A LAPSED EMS PERSONNEL LICENSE.** An individual desiring to reinstate a lapsed personnel license must provide documentation that he meets the following requirements: (3-29-12)

**01. Declaration of Previous Applications and Licensures.** A reinstatement candidate must declare each state or jurisdiction in which he has applied for, been denied, or held an EMS license or certification. (3-29-12)

**02. Authorization for Release of Information.** A reinstatement candidate must provide authorization for the EMS authority in other states or jurisdictions to release the candidate's registration, licensure, and certification information to the Idaho EMS Bureau. (3-29-12)

**03. Provide Current Affiliation with EMS Agency.** A reinstatement candidate must declare all organizations in which they are allowed to practice as licensed personnel. The candidate must have a current

affiliation with a licensed EMS agency that functions at, or above, the level of licensure being sought by the candidate. (3-29-12)

**04. Documentation of Continuing Education for Lapsed License Reinstatement.** A candidate for reinstatement of a lapsed license must provide documentation of continuing education consistent with the license holder's lapsed license. Continuing education requirements are provided in Sections 300 through 325 of these rules. The time frame for meeting the continuing education requirements for reinstatement are as follows: (3-29-12)( )

**a.** The candidate must meet continuing education requirements under Sections 320 through 325 of these rules for the last valid licensure cycle; and (3-29-12)( )

**b.** Additional continuing education hours in any combination of categories and venues, proportionate to the amount of time since the expiration date of the lapsed license, as follows: (3-29-12)

**i.** EMR -- Three-quarters (3/4) of one (1) hour of continuing education per month of lapsed time. (3-29-12)

**ii.** EMT -- One and one-half (1 ½) hours of continuing education per month of lapsed time. (3-29-12)

**iii.** AEMT -- Two and one-quarter (2 ¼) hours of continuing education per month of lapsed time. (3-29-12)

**iv.** Paramedic -- Three (3) hours of continuing education per month of lapsed time. (3-29-12)

**05. Valid Identification for Reinstatement of Lapsed License.** A reinstatement candidate must have a valid state driver's license, an Idaho identification card which is issued by a county driver's license examining station, or identification card issued by the Armed Forces of the United States. (3-29-12)

**06. Criminal History and Background Check for Reinstatement of Lapsed License.** A reinstatement candidate must successfully complete a criminal background check under the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." Denial without the grant of an exemption under IDAPA 16.05.06 will result in denial of reinstatement of licensure. (3-29-12)

**07. Pass Standardized Examination for Reinstatement.** A reinstatement candidate must successfully complete the standardized examination for the lapsed level of licensure required under IDAPA 16.021.035, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements." A candidate for reinstatement must successfully complete the standardized *certification* examination within the time period during which the license was lapsed. (3-29-12)( )

**08. Standardized Exam Attempts For Reinstatement.** A candidate for licensure reinstatement is allowed to attempt to successfully pass the standardized exam as follows: (3-29-12)

**a.** An EMR candidate is allowed three (3) attempts to pass the exam, after which the initial EMR course must be successfully completed again before another three (3) attempts are allowed. (3-29-12)

**b.** An EMT candidate is allowed three (3) attempts to pass the exam, after which twenty-four (24) hours of remedial education must be successfully completed before another three (3) attempts are allowed. (3-29-12)

**c.** An AEMT candidate is allowed three (3) attempts to pass the exam, after which thirty-six (36) hours of remedial education must be successfully completed before another three (3) attempts are allowed. (3-29-12)

**d.** A Paramedic candidate is allowed three (3) attempts to pass the exam, after which forty-eight (48) hours of remedial education must be successfully completed before another three (3) attempts are allowed. (3-29-12)

**09. Submit Required Licensure Fee for Reinstatement.** A candidate must submit the applicable reinstatement license fee provided in Section 111 of these rules. A candidate for reinstatement of an EMR or EMT level of licensure has no fee requirement. (3-29-12)

10. **Expiration Date of a Reinstated License.** The expiration date for a lapsed license that is reinstated is determined as provided in Section 115 of these rules. (3-29-12)

11. **Reinstatement During Transition.** A candidate may reinstate his lapsed license only if he has completed transition requirements for his level of licensure. Education obtained in a transition course may be used to meet the CEU requirements for reinstatement according to Section 300 of these rules. (3-29-12)

132. -- 139. (RESERVED)

**140. RECOGNITION OF REGISTRATION, CERTIFICATION OR LICENSURE FROM OTHER JURISDICTIONS.**

01. **EMS Personnel Licensed or Certified in Other States.** An individual, possessing an EMS personnel license or certification from a state other than Idaho, must have prior recognition or reciprocity granted by the EMS Bureau prior to providing emergency medical care in Idaho. The following applies: (3-29-12)

a. An individual certified or licensed in a state that has an interstate compact with Idaho that allows reciprocal recognition of EMS personnel may practice as licensed personnel as defined in the interstate compact. (3-29-12)

b. An individual who is currently licensed or certified by another State to provide emergency medical care can apply to the EMS Bureau for limited recognition to practice in Idaho. ~~Limited recognition does not grant an individual the ability to practice outside of those specified and approved by the EMS Bureau.~~ as provided in Subsection 140.02 of this rule. (3-29-12)( )

02. Limited Recognition in Idaho. An individual, who is currently licensed or certified by another state to provide emergency medical care and applies to practice EMS within the confines of a specific incident, may be granted limited recognition by the EMS Bureau. Limited recognition allows an individual to practice EMS in Idaho only within the confines of the specific incident for which it was issued and only for a specified period of time not to exceed the duration of the incident for which it was issued. ( )

~~e03. Personnel with NREMT Registration or Current EMS Certification.~~ An individual, possessing a current NREMT registration or a current EMS certification or license from another state at or above the level of licensure they are seeking in Idaho, is eligible for an Idaho EMS personnel licensure if they satisfy the requirements in Section 110 of these rules ~~prior to providing emergency medical care in Idaho.~~ (3-29-12)( )

024. **Personnel Licensure Candidate Trained in Other States.** A candidate trained outside of Idaho must apply for and obtain an Idaho EMS license as required in Section 110 of these rules prior to providing emergency medical care in Idaho. A declaration that the candidate is fully eligible for EMS licensure in the state in which he was trained, must be obtained from the EMS licensing authority in that state and submitted to the EMS Bureau. (3-29-12)

~~03. Individual With a NREMT Registration. An individual possessing only a registration with the National Registry of Emergency Medical Technicians (NREMT) must obtain an Idaho EMS personnel license as required in Section 110 of these rules prior to providing emergency medical care in Idaho.~~ (3-29-12)

**(BREAK IN CONTINUITY OF SECTIONS)**

**300. CONTINUING EDUCATION AND SKILLS PROFICIENCY.**

01. **Continuing Education Must Meet Objectives of Initial Course Curriculum.** All continuing education and skills proficiency assurance must be consistent with the objectives of the initial course curriculum or be a logical progression of those objectives. (3-29-12)

**02. Documentation of Continuing Education.** Licensed personnel must maintain documentation of all continuing education as follows: (3-29-12)

- a. An EMR and EMT must maintain documentation of continuing education for four (4) years. (3-29-12)
- b. An AEMT and Paramedic must maintain documentation of continuing education for three (3) years. (3-29-12)

**03. Transition to New Scope of Practice.** Education required to transition to a new scope of practice must meet the following: (3-29-12)

- a. Within the same level of licensure, all transition education may count on an hour-for-hour basis in the appropriate categories within a single venue. When transition education hours exceed seventy-five percent (75%) of the total continuing education hours required, all continuing education hours can be in a single venue; and (3-29-12)
- b. Education must be completed during a single license duration. (3-29-12)

**04301. CONTINUING EDUCATION RECORDS ARE SUBJECT TO AUDIT.**

The EMS Bureau reserves the right to audit continuing education records to verify that renewal requirements have been met. (3-29-12)

**01. Documentation Record.** All documentation for continuing education hours must include: ( )

- a. Name of attendee: ( )
- b. Date education was completed; and ( )
- c. Education sponsor or instructor. ( )

**02. Proof of Completion.** The following are acceptable formats for proof of completion of continuing education: ( )

- a. Signed course roster; ( )
- b. Certificate of completion; ( )
- c. Electronic verification of completion of on-line course; ( )
- d. Verification of attendance from EMS conference; ( )
- e. Verification or proof of providing instruction; or ( )
- f. Agency training record validated by agency administrator. ( )

~~3042.~~ -- 304. (RESERVED)

**305. CONTINUING EDUCATION CATEGORIES FOR PERSONNEL LICENSURE RENEWAL.**

- 01. ~~Pediatric Assessment and Management~~ **Airway.** (3-29-12)( )
- 02. ~~Anatomy and Physiology~~ **Cardiovascular.** (3-29-12)( )
- 03. ~~Medical Terminology~~ **Trauma.** (3-29-12)( )
- 04. ~~Pathophysiology~~ **Medical.** (3-29-12)( )

05. ~~Life-Span-Development~~ **Operations.** (3-29-12)(    )
06. ~~Public-Health~~ **Pediatrics.** (3-29-12)(    )
- ~~07. Pharmacology.~~ (3-29-12)
- ~~08. Airway Management, Ventilation, and Oxygenation.~~ (3-29-12)
- ~~09. Patient Assessment.~~ (3-29-12)
- ~~10. Medical Conditions.~~ (3-29-12)
- ~~11. Shock and Resuscitation.~~ (3-29-12)
- ~~12. Trauma.~~ (3-29-12)
- ~~13. Special Patient Populations. Such as bariatric, geriatric, obstetrics, pregnancy, etc.~~ (3-29-12)
- ~~14. EMS Systems and Operations.~~ (3-29-12)
306. -- 309. (RESERVED)
- 310. VENUES OF CONTINUING EDUCATION FOR PERSONNEL LICENSURE RENEWAL.**  
Continuing education for all personnel must include at least two (2) of the venues described in Subsections 310.01 through 310.12 of this rule for each licensure period. (    )
01. **Structured Classroom Sessions.** (3-29-12)
02. **Refresher Programs.** Refresher programs that revisit the original curriculum and have an evaluation component (3-29-12)
03. **Nationally Recognized Courses.** (3-29-12)
04. **Regional and National Conferences.** (3-29-12)
05. **Teaching Continuing Education Topics.** The continuing education topics being taught must fall under the categories in Section 305 of these rules. (3-29-12)
06. **Agency Medical Director-Approved Self-Study or Directed Study.** This venue is not allowed to be used for a certificate of eligibility continuing education requirement ~~under Section 350 of these rules.~~ (3-29-12)(    )
07. **Case Reviews and Grand Rounds.** (3-29-12)
08. **Distributed Education.** This venue includes distance and blended education using computer, video, audio, Internet, and CD resources (3-29-12)
09. **Journal Article Review with an Evaluation Instrument.** (3-29-12)
10. **Author or Co-Author an EMS-Related Article in a Nationally Recognized Publication.** ~~The article must be published in an EMS-specific publication.~~ (3-29-12)(    )
- 11. Simulation Training.** (    )
- 12. Evaluator at a State or National Psychomotor Exam.** (    )

311. -- 319. (RESERVED)

**320. ~~EMR LEVEL~~ LICENSE RENEWAL CONTINUING EDUCATION ~~AND SKILLS PROFICIENCY~~ REQUIREMENTS.**

An ~~EMR level~~ license renewal candidate must provide documentation of the following continuing education hours provided in the table below during each licensure period. (3-29-12)(    )

~~**01. EMR Level Continuing Education Hours Needed for License Renewal.** A candidate must provide proof of successful completion of twenty-four (24) hours of continuing education. The types of continuing education courses and the number of hours required for EMR level licensure are:~~ (3-29-12)

~~**a.** A minimum of two (2) hours in pediatrics;~~ (3-29-12)

~~**b.** A minimum of three (3) hours in EMS Systems and Operations earned by completing state-approved Landing Zone Officer (LZO) and extrication awareness training. Continuing education hours are awarded as follows:~~ (3-29-12)

~~**i.** For LZO training, two (2) hours in classroom presentation, or one (1) hour in distributed education;~~ (3-29-12)

~~**ii.** For extrication awareness training, two (2) hours in classroom presentation, or one (1) hour in distributed education;~~ (3-29-12)

~~**c.** Two (2) hours in six (6) categories other than pediatrics and EMS Systems and Operations listed in Section 305 of these rules, for twelve (12) continuing education hours; and~~ (3-29-12)

~~**d.** Seven (7) hours of continuing education can be from any single category or combination of categories listed in Section 305 of these rules.~~ (3-29-12)

~~**02. Skills Proficiency for EMR Level License Renewal.** A candidate must demonstrate proficiency in the skills necessary to provide safe and effective patient care at the EMR licensure level under the authority of IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services Physician Commission," as follows:~~ (3-29-12)

~~**a.** Recognize and manage acute traumatic and medical life threats or conditions based on patient assessment findings for pediatric, adult, geriatric, and special needs patients; and~~ (3-29-12)

~~**b.** Specific skills for an EMR that includes:~~ (3-29-12)

~~**i.** Airway, ventilation, and oxygenation;~~ (3-29-12)

~~**ii.** Cardiovascular and circulation;~~ (3-29-12)

~~**iii.** Immobilization;~~ (3-29-12)

~~**iv.** Medication administration;~~ (3-29-12)

~~**v.** Normal childbirth;~~ (3-29-12)

~~**vi.** Patient care reporting documentation; and~~ (3-29-12)

~~**vii.** Safety and operations.~~ (3-29-12)

<b>TABLE 320</b>				
<b>LICENSE RENEWAL CONTINUING EDUCATION (CE) REQUIREMENTS</b>				
<b>CE CATEGORIES</b>	<b>EMR</b>	<b>EMT</b>	<b>AEMT</b>	<b>AEMT</b>
	<b>24 TOTAL CE Hours</b>	<b>48 TOTAL CE Hours</b>	<b>54 TOTAL CE Hours</b>	<b>54 TOTAL CE Hours</b>
<b><u>An individual must complete at least 1 hour of continuing education in each category.</u></b>				
<u>Airway, Respiration, and Ventilation</u>	<u>No more than 7 CE hours in any single category may be counted toward the total number of CE Hours needed for renewal.</u>	<u>No more than 14 CE hours in any single category may be counted toward the total number of CE Hours needed for renewal.</u>	<u>No more than 16 CE hours in any single category may be counted toward the total number of CE Hours needed for renewal.</u>	<u>No more than 22 CE hours in any single category may be counted toward the total number of CE Hours needed for renewal.</u>
<u>Cardiovascular</u>				
<u>Trauma</u>				
<u>Medical</u>				
<u>Operations: Landing Zone &amp; Extrication Awareness</u>				
<u>Pediatrics</u>	<u>2 hours</u>	<u>4 hours</u>	<u>6 hours</u>	<u>6 hours</u>

( )

321. -- 324. (RESERVED)

**325. ~~EMT LEVEL~~ LICENSE RENEWAL ~~CONTINUING EDUCATION AND~~ SKILLS PROFICIENCY REQUIREMENTS.**

~~An EMT level license renewal candidate must provide documentation of the following during each licensure period demonstrate proficiency in the skills necessary to provide safe and effective patient care at the licensure level consistent with the scope of practice provided in IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission."~~ (3-29-12)( )

~~01. EMT Level Continuing Education Hours Needed for License Renewal. A candidate must provide proof of successful completion of forty-eight (48) hours of continuing education. The types of continuing education courses and the number of hours needed for EMT level licensure are:~~ (3-29-12)

~~a. A minimum of four (4) hours in pediatrics;~~ (3-29-12)

~~b. A minimum of three (3) hours in EMS Systems and Operations earned by completing state-approved Landing Zone Officer (LZO) and extrication awareness training. Continuing education hours are awarded as follows:~~ (3-29-12)

~~i. For LZO training, two (2) hours in classroom presentation, or one (1) hour in distributed education;~~ (3-29-12)

~~ii. For extrication awareness training, two (2) hours in classroom presentation, or one (1) hour in distributed education;~~ (3-29-12)

~~c. Four (4) hours in eight (8) categories other than pediatrics and EMS Systems and Operations listed in Section 305 of these rules for thirty-two (32) hours; and~~ (3-29-12)

~~d. Nine (9) hours can be from any single category or combination of categories listed in Section 305~~

~~of these rules. (3-29-12)~~

~~**02. Venues Where Continuing Education May be Taken.** Continuing education for personnel licensed at the EMT level must include four (4) of the continuing education venues listed in Section 310 of these rules during each licensure period. (3-29-12)~~

~~**03. Skills Proficiency for EMT Level License Renewal.** A candidate must demonstrate proficiency in the skills necessary to provide safe and effective patient care at the EMT licensure level under the authority of IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services Physician Commission," as follows: (3-29-12)~~

~~**a.** Recognize and manage acute traumatic and medical life threats or conditions based on patient assessment findings for pediatric, adult, geriatric, and special needs patients; and (3-29-12)~~

~~**b.** Specific skills for an EMT that includes: (3-29-12)~~

~~i. Airway, ventilation, and oxygenation; (3-29-12)~~

~~ii. Cardiovascular and circulation; (3-29-12)~~

~~iii. Immobilization; (3-29-12)~~

~~iv. Medication administration; (3-29-12)~~

~~v. Normal and complicated childbirth; (3-29-12)~~

~~vi. Patient care reporting documentation; and (3-29-12)~~

~~vii. Safety and transport operations. (3-29-12)~~

~~326.—329. (RESERVED)~~

~~**330. AEMT LEVEL LICENSE RENEWAL CONTINUING EDUCATION AND SKILLS PROFICIENCY REQUIREMENTS.**~~

~~An AEMT license renewal candidate must provide documentation of the following during each licensure period: (3-29-12)~~

~~**01. AEMT Level Continuing Education Hours Needed for License Renewal.** A candidate must provide proof of successful completion of fifty-four (54) hours of continuing education. The types of continuing education courses and the number of hours needed for AEMT level licensure are: (3-29-12)~~

~~**a.** A minimum of six (6) hours in pediatrics; (3-29-12)~~

~~**b.** A minimum of three (3) hours in EMS Systems and Operations earned by completing state-approved Landing Zone Officer (LZO) and extrication awareness training. Continuing education hours are awarded as follows: (3-29-12)~~

~~i. For LZO training, two (2) hours in classroom presentation, or one (1) hour in distributed education; (3-29-12)~~

~~ii. For extrication awareness training, two (2) hours in classroom presentation, or one (1) hour in distributed education; (3-29-12)~~

~~**c.** Four (4) hours in nine (9) categories other than pediatrics and EMS Systems and Operations listed in Section 305 of these rules, for thirty-six (36) hours; and (3-29-12)~~

~~**d.** Nine (9) hours of continuing education can be from any single category or combination of categories listed in Section 305 of these rules. (3-29-12)~~

~~02. Venues Where Continuing Education for AEMT License Renewal May be Taken. Continuing education for personnel licensed at the AEMT level must include four (4) of the continuing education venues listed in Section 310 of these rules during each licensure period. (3-29-12)~~

~~03. Skills Proficiency for AEMT Level License Renewal. A candidate must demonstrate proficiency in the skills necessary to provide safe and effective patient care at the AEMT licensure level under the authority of IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services Physician Commission," as follows: (3-29-12)~~

~~a. Recognize and manage acute traumatic and medical life threats or conditions based on patient assessment findings for pediatric, adult, geriatric, and special needs patients; and (3-29-12)~~

~~b. Specific skills for an AEMT that includes: (3-29-12)~~

~~i. Advanced airway, ventilation, and oxygenation; (3-29-12)~~

~~ii. Cardiovascular and circulation; (3-29-12)~~

~~iii. Immobilization; (3-29-12)~~

~~iv. Medication administration; (3-29-12)~~

~~v. Normal and complicated childbirth; (3-29-12)~~

~~vi. Patient care reporting documentation; (3-29-12)~~

~~vii. Safety and transport operations; and (3-29-12)~~

~~viii. Vascular access. (3-29-12)~~

~~331.—334. (RESERVED)~~

~~335. PARAMEDIC LEVEL LICENSE RENEWAL CONTINUING EDUCATION AND SKILLS PROFICIENCY REQUIREMENTS.~~

~~A paramedic license renewal candidate must provide documentation of the following during each licensure period. (3-29-12)~~

~~01. Paramedic Level Continuing Education Hours Needed for License Renewal. A candidate must provide proof of successful completion of seventy-two (72) hours of continuing education. The types of continuing education courses and the number of hours needed for paramedic level licensure are: (3-29-12)~~

~~a. A minimum of eight (8) hours in pediatrics; (3-29-12)~~

~~b. A minimum of three (3) hours in EMS Systems and Operations earned by completing state-approved Landing Zone Officer (LZO) and extrication awareness training. Continuing education hours are awarded as follows: (3-29-12)~~

~~i. For LZO training, two (2) hours in classroom presentation, or one (1) hour in distributed education; (3-29-12)~~

~~ii. For extrication awareness training, two (2) hours in classroom presentation, or one (1) hour in distributed education; (3-29-12)~~

~~c. Four (4) hours in eleven (11) categories other than pediatrics and EMS Systems and Operations listed in Section 305 of these rules, for forty-four (44) hours; and (3-29-12)~~

~~d. Seventeen (17) hours can be from any single category or a combination of categories listed in~~

~~Section 305 of these rules. (3-29-12)~~

~~02. **Venues Where Continuing Education for Paramedic Level License Renewal May be Taken.** Continuing education for personnel licensed at the paramedic level must include six (6) of the continuing education venues listed in Section 310 of these rules during each licensure period. (3-29-12)~~

~~03. **Skills Proficiency for Paramedic Level License Renewal.** A candidate must demonstrate proficiency in the skills necessary to provide safe and effective patient care at the Paramedic licensure level under the authority of IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services Physician Commission," as follows: (3-29-12)~~

~~a. Recognize and manage acute traumatic and medical life threats or conditions based on patient assessment findings for pediatric, adult, geriatric, and special needs patients; and (3-29-12)~~

~~b. Specific skills for a Paramedic that includes: (3-29-12)~~

~~i. Advanced airway, ventilation, and oxygenation, to include endotracheal intubation; (3-29-12)~~

~~ii. Cardiovascular and circulation, to include cardiac rhythm interpretation; (3-29-12)~~

~~iii. Immobilization; (3-29-12)~~

~~iv. Medication administration, to include parenteral drug administration; (3-29-12)~~

~~v. Normal and complicated childbirth; (3-29-12)~~

~~vi. Patient care reporting documentation; (3-29-12)~~

~~vii. Safety and transport operations; (3-29-12)~~

~~viii. Vascular access; and (3-29-12)~~

~~ix. Manual defibrillation. (3-29-12)~~

~~336.—349: (RESERVED)~~

~~350. **CONTINUING EDUCATION AND SKILLS PROFICIENCY FOR RENEWAL OF CERTIFICATE OF ELIGIBILITY REQUIREMENTS.**~~

~~A certificate of eligibility renewal candidate must provide documentation demonstrating completion of the following during each period of eligibility. (3-29-12)~~

~~01. **Examination.** A candidate must have successfully completed the standardized examination designated by the EMS Bureau for the certificate of eligibility. (3-29-12)~~

~~02. **Continuing Education for Certificate of Eligibility Licensure Level.** A candidate must provide proof of successful completion of continuing education hours for the types of continuing education courses, the number of hours needed for a specific certificate of eligibility licensure level, and in the venues as required for the following: (3-29-12)~~

~~a. EMR licensure level renewal required in Section 320 of these rules. (3-29-12)~~

~~b. EMT licensure level renewal required in Section 325 of these rules. (3-29-12)~~

~~c. AEMT licensure level renewal required in Section 330 of these rules. (3-29-12)~~

~~d. Paramedic licensure level renewal required in Section 335 of these rules. (3-29-12)~~

~~351. -- 399.~~ (RESERVED)

~~400. INVESTIGATION OF COMPLAINTS FOR PERSONNEL LICENSING VIOLATIONS.~~

~~Investigation of complaints and disciplinary actions for personnel licensing are provided under IDAPA 16.01.12, "Emergency Medical Services (EMS) Complaints, Investigations, and Disciplinary Actions." (3-29-12)~~

~~401. 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 imposed by the EMS Bureau for any action, conduct, or failure to act which 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." (3-29-12)~~

~~402~~<sup>326</sup>. -- 999. (RESERVED)

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

**16.01.12 - EMERGENCY MEDICAL SERVICES (EMS) -- COMPLAINTS,  
INVESTIGATIONS, AND DISCIPLINARY ACTIONS**

**DOCKET NO. 16-0112-1501**

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

**Tuesday, August 11, 2015 - 10:00 a.m.  
MDT**

**2224 East Old Penitentiary Road  
Boise, ID 83712**

**PARTICIPATION BY WEBINAR  
(for those who are unable to attend the hearing)**

**To join the webinar, go to:  
<https://global.gotomeeting.com/join/553709749>**

**Use your microphone and speakers (VoIP) -- a headset is recommended. Or, call in using your telephone.**

Dial: 1 (646) 749-3122  
Access Code: 553-709-749

**Audio PIN: Shown after joining the meeting using URL above  
Meeting ID: 553-709-749**

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:

These rules are being amended to align with a new chapter of rules that provides the education, instructor, and examination standards an individual must meet to be a licensed EMS provider in Idaho. These rules include additions and references to rules from IDAPA 16.02.03, "Emergency Medical Services," a chapter being repealed, and to the new chapter IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructors, and Examination Requirements."

Updates have been made to align these rules with the agency and personnel licensing requirements that provide clarity for enforcement actions that can be taken. Language for professional standards has been removed from this chapter and placed in the appropriate licensing 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(2), Idaho Code, negotiated rulemaking was held under the Personnel Licensing and the Education chapters, but not specifically for this EMS chapter. The changes in this rule are being made for clarity and to align with the new education chapter and remove references to the repealed chapter.

**INCORPORATION BY REFERENCE:** There are no documents incorporated in this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Bruce Cheeseman 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 26, 2015.

DATED this 7th Day of July, 2015.

Tamara Prisock  
DHW - Administrative Rules Unit  
450 W. State Street - 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
(208) 334-5500 phone; (208) 334-6558 fax  
E-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 16-0112-1501**  
**(Only those Sections being amended are shown.)**

**001. TITLE AND SCOPE.**

**01. Title.** The title of these rules is IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions." (3-29-12)

**02. Scope.** These rules provide for the management of complaints, investigations, enforcement, and disciplinary actions by the EMS Bureau for personnel and agency licensure and certification, and educational programs and instructor approval. (3-29-12)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**110. REPORTING SUSPECTED VIOLATION.**

**01. Suspected Violations.** Any person may report a suspected violation of any law or rule governing EMS, ~~including:~~ (7-1-14)(    )

~~a. Sections 56-1011 through 56-1023, Idaho Code;~~ (7-1-14)

~~b. IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission";~~ (7-1-14)

~~c. IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements";~~

- ~~(7-1-14)~~
- ~~d.~~ *IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements"; or* ~~(7-1-14)~~
  - ~~e.~~ *IDAPA 16.02.03, "Emergency Medical Services."* ~~(7-1-14)~~
- 02. Report Violation.** To report a suspected violation, contact the EMS Bureau described in Section 005 of these rules. (7-1-14)

**(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:~~ ~~(7-1-14)~~ ( )
- ~~a.~~ *Sections 56-1011 through 56-1023, Idaho Code;* ~~(7-1-14)~~
  - ~~b.~~ *IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements";* ~~(7-1-14)~~
  - ~~c.~~ *IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements";* ~~(7-1-14)~~
  - ~~d.~~ *IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions";* ~~(7-1-14)~~
- or*
- ~~e.~~ *IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission";* ~~(7-1-14)~~
  - ~~f.~~ *IDAPA 16.02.03, "Emergency Medical Services."* ~~(7-1-14)~~
- 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:~~ ~~(7-1-14)~~ ( )
- ~~a.~~ *Sections 56-1011 through 56-1023, Idaho Code;* ~~(7-1-14)~~
  - ~~b.~~ *IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements";* ~~(7-1-14)~~
  - ~~c.~~ *IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements";* ~~(7-1-14)~~
  - ~~d.~~ *IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions";* ~~(7-1-14)~~
- or*
- ~~e.~~ *IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission";* ~~(7-1-14)~~
  - ~~f.~~ *IDAPA 16.02.03, "Emergency Medical Services."* ~~(7-1-14)~~

**201. -- 209. (RESERVED)**

**210. VIOLATIONS THAT MAY RESULT IN ADMINISTRATIVE ACTIONS.**

The EMS Bureau may impose ~~an~~ administrative actions, ~~such as~~ including denial, revocation, suspension, or retention under conditions ~~that include, but are not limited to, those~~ specified in Sections 300 through 399 of these rules. Administrative actions may be imposed on any of the following: the holder of, or an applicant or candidate for, an EMS license, or certificate, education program approval, or recognition ~~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"; (7-1-14)~~
  - ~~c. IDAPA 16.01.07, "Emergency Medical Services (EMS) — Personnel Licensing Requirements"; (7-1-14)~~
  - ~~d. IDAPA 16.01.12, "Emergency Medical Services (EMS) — Complaints, Investigations, and Disciplinary Actions"; (7-1-14)~~
  - ~~e. IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission"; (7-1-14)~~
  - ~~f. IDAPA 16.02.03, "Emergency Medical Services." (7-1-14)~~
- ~~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: (7-1-14)~~
  - ~~a. IDAPA 16.01.07, "Emergency Medical Services (EMS) — Personnel Licensure Requirements"; and (7-1-14)~~
  - ~~b. IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." (7-1-14)~~
- ~~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)

240. INVESTIGATION CONFIDENTIALITY.

01. Informal Resolution. Informal resolution of complaints or non-compliance by guidance or ~~warning letter~~ negotiated resolution is ~~considered official correspondence and is not~~ public information. (3-29-12)( )

02. Administrative License Action. Preliminary investigations and documents supplied or obtained in connection with them are confidential until a formal notice of administrative license action is issued. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

300. ~~PERSONNEL~~ ACTIONS RESULTING FROM INVESTIGATIONS.

The following actions may be imposed upon the subject of an investigation by the EMS Bureau without peer review: (3-29-12)( )

01. ~~Personnel~~-Letter of Guidance. The EMS Bureau may issue a letter of guidance, directing the subject of the investigation to the standards, rules, educational resources, or local jurisdiction for resolution of minor non-compliance issues where no injury or threat of harm to the public, profession, or EMS system occurred. The subject of the investigation must show a willingness to become compliant and correct the issue within thirty (30) days of receipt of the personnel guidance letter. (3-29-12)( )

02. ~~Personnel~~-Warning Letter. The EMS Bureau may issue a warning letter for a first offense where an unlicensed individual is providing patient care in violation of Section 56-1020, Idaho Code; ~~or.~~ (3-29-12)( )

03. ~~Negotiated Resolution for Personnel~~. The EMS Bureau may negotiate a resolution with the subject of an investigation where allegations of misconduct or medical scope of practice non-compliance, if found to be true, did not cause, or is not likely to cause, injury or harm to the public, profession, or EMS system. The issue must be resolved and corrected within thirty (30) days of the negotiated resolution or settlement agreed to by both the subject of the investigation and the EMS Bureau. (3-29-12)( )

a. Negotiated resolution participants will include the subject of the investigation, EMS Bureau staff and other parties deemed appropriate by the EMS Bureau. (3-29-12)

b. During the negotiated resolution process, the subject of the investigation may be offered specific remediation or disciplinary action by consent, which, if agreed to, will resolve the matter with no further right to appeal unless stipulated and agreed to at the time that the remediation or disciplinary action is agreed upon. (3-29-12)

c. When the remediation or disciplinary action is not agreed to by consent of both the subject of the investigation and the EMS Bureau, the matter may then be referred to a peer review. (3-29-12)

~~301.—309.~~ (RESERVED)

~~310. AGENCY ACTIONS RESULTING FROM INVESTIGATIONS.~~

~~The following actions may be imposed upon an EMS agency that is the subject of an investigation by the EMS Bureau without peer review: (3-29-12)~~

~~01. Agency Letter of Guidance. The EMS Bureau may issue a letter of guidance, directing the EMS agency to the standards, rules, educational resources, or local jurisdiction for resolution of minor non-compliance issues where no injury or threat of harm to the public or EMS system occurred. The EMS agency must show a willingness to become compliant and correct the issue within thirty (30) days of receipt the agency guidance letter. (3-29-12)~~

~~02. Agency Warning Letter. The EMS Bureau may issue a warning letter for a first offense where an organization is providing unlicensed emergency medical services in violation of Section 56-1021, Idaho Code. (3-29-12)~~

~~03. Negotiated Resolution for an Agency. The EMS Bureau may negotiate a resolution with the subject of an investigation, where the allegations, if found to be true, did not cause, or is not likely to cause, injury or harm to the public or EMS system. The issue must be resolved within thirty (30) days of the negotiated resolution or a settlement agreed to by both the subject of the investigation and the EMS Bureau. (3-29-12)~~

~~a. Negotiated resolution participants will include representatives from the EMS agency or the subject under investigation, EMS Bureau staff, and other parties deemed appropriate by the EMS Bureau. (3-29-12)~~

~~b. During the negotiated resolution process, the subject of the investigation may be offered specific remediation or disciplinary action by consent, which, if agreed to, will resolve the matter with no further right to appeal unless stipulated and agreed to at the time that the remediation or disciplinary action is agreed upon. (3-29-12)~~

~~e. When remediation or disciplinary action is not agreed to by consent of both the subject of the investigation and the EMS Bureau, the matter may then be referred to a peer review. (3-29-12)~~

~~310.1. -- 319. (RESERVED)~~

**320. PEER REVIEW.**

The EMS Bureau may elect to conduct a peer review for ~~an~~ alleged statute or rule violations when it determines that a peer review is an appropriate action, or a negotiated resolution or settlement agreement described in Sections 300 ~~and 310~~ of these rules, is not reached. The peer review is conducted as follows: (3-29-12) ( )

**01. Review of Case by Peer Review Team.** The peer review team reviews the case details, subject's background, affiliation, licensure history, associated evidence, and documents, and then considers aggravating and mitigating circumstance as follows: (3-29-12)

**a.** Aggravating circumstances can include: prior or multiple offenses, vulnerability of victim, obstruction of the investigation, and dishonesty. (3-29-12)

**b.** Mitigating circumstances can include: absence of prior offenses, absence of dishonest or selfish motive, timely effort to rectify situation, interim successful rehabilitation, misdirection per agency protocol, or medical direction. (3-29-12)

**02. Subject Given Opportunity to Respond.** The subject of the investigation will be given the opportunity to respond in writing, by teleconference, or at the option of the EMS Bureau, in person to the alleged violation. (3-29-12)

**03. Evaluation of Evidence.** The peer review team will evaluate the evidence and make a majority decision of the finding for each alleged statute, rule, or standards violation, including any additional detected violations. (3-29-12)

**04. Recommend Action.** The peer review team will recommend actions to the EMS Bureau. If subject is found to have violated statutes, rules, or standards, the recommendations may include the following: (3-29-12)

- a. Administrative license action, time frames, conditions, and fines, if imposed, on an EMS agency: ~~(3-29-12)~~( )
- b. Administrative license action, time frames, and conditions, if imposed, on EMS personnel: ~~or (3-29-12)~~( )
- c. Administrative action, time frames, conditions, and fines, if imposed, on an EMS approved education program or instructor certificate. ( )

321. -- 329. (RESERVED)

**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~~ Application.** The EMS Bureau may deny an application for an EMS personnel license, EMS certificate of eligibility, EMS personnel limited recognition, EMS agency license, EMS education program approval, or refuse to renew an EMS personnel license or instructor certification: ~~(3-29-12)~~( )

a. When the application ~~for licensure or certification~~ is not complete or the individual applicant 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," ~~or~~ IDAPA 16.02.03, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination 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)

~~eb.~~ 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 an EMS personnel license, EMS personnel certificate of eligibility, EMS agency license, EMS education program approval, or EMS instructor certification: ~~(3-29-12)~~( )

a. When the renewal 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 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements," IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements," 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements," or IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission"; or ~~(7-1-14)~~( )

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: ~~or (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 the holder of an EMS personnel license, ~~or~~ EMS certificate holder of eligibility, EMS personnel limited

recognition, EMS agency license, EMS education program approval, or EMS instructor certification to retain a license, approval, 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)

**054.** Suspend ~~EMS Personnel License or Certificate~~. The EMS Bureau may suspend an EMS personnel license, ~~or EMS certificate of eligibility, EMS personnel limited recognition, EMS agency license, EMS education program approval, or EMS instructor certification~~ 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)( )

~~e. 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)

**065.** Revoke ~~EMS Personnel License or Certificate~~. The EMS Bureau may revoke an EMS personnel license, ~~or EMS certificate of eligibility, EMS personnel limited recognition, EMS agency license, EMS education program approval, or EMS instructor certification~~ when: (3-29-12)( )

a. A peer review team recommends ~~license or certificate~~ revocation; or (3-29-12)( )

b. The license or certificate 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.~~ The EMS Bureau will notify the city, fire district, hospital district, ambulance district, dispatch center, and county in which an EMS agency provides emergency prehospital response upon revocation of an EMS agency license. (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)

**06. Review of Administrative Actions by the EMS Physician Commission.** The EMS Physician Commission must review, at their next available meeting, administrative actions taken by the Department as described in Subsections 330.01 through 330.05 of this rule. ( )

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

- 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements," including: (7-1-14)
- 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 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements," except when the responder reasonably determines that: (7-1-14)
- 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 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements." (7-1-14)
- 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 16.021.03, "Emergency Medical Services (~~EMS~~) -- ~~Agency Licensing Requirements~~." (~~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 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements." (7-1-14)

**(BREAK IN CONTINUITY OF SECTIONS)**

**350. REINSTATEMENT ~~OF EMS LICENSE~~ FOLLOWING REVOCATION.**

An application of any revoked ~~EMS agency or personnel~~ license, certificate, or educational program approval, 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 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements." (7-1-14)

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

**16.02.03 - EMERGENCY MEDICAL SERVICES**

**DOCKET NO. 16-0203-1501 (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. This action is authorized pursuant to Section 56-1023, Idaho Code.

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

**Tuesday, August 11, 2015 - 10:00 a.m. MDT**

**2224 East Old Penitentiary Road  
Boise, ID 83712**

**PARTICIPATION BY WEBINAR  
(for those who are unable to attend the hearing)**

**To join the webinar, go to:  
<https://global.gotomeeting.com/join/553709749>**

**Use your microphone and speakers (VoIP) -- a headset is recommended. Or, call in using your telephone.**

Dial: 1 (646) 749-3122  
Access Code: 553-709-749

**Audio PIN: Shown after joining the meeting using URL above  
Meeting ID: 553-709-749**

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 Emergency Medical Services (EMS) chapter of rules is being repealed in its entirety. Over the past several years, the Department has been working on rewriting the rules governing EMS in Idaho. As new chapters of rules have been written, the corresponding, obsolete portions of the EMS chapter (IDAPA 16.02.03) were deleted. The few rules remaining in the old chapter are being moved into the new EMS education chapter (proposed as IDAPA 16.01.05). As a result, the chapter can now be repealed.

**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 negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

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 three (3) times: in the March 4, 2015, Idaho Administrative Bulletin, **Vol. 15-3, pages 13-15**; the April 1, 2015, Idaho Administrative Bulletin, **Vol. 15-4, pages 28-30**; and the May 6, 2015, Idaho Administrative Bulletin, **Vol. 15-5, pages 53-54**.

**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 Bruce Cheeseman 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 26, 2015.

DATED this 7th Day of July, 2015.

Tamara Prisock  
DHW - Administrative Rules Unit  
450 W. State Street - 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
(208) 334-5500 phone; (208) 334-6558 fax  
E-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

**IDAPA 16.02.03 IS BEING REPEALED IN ITS ENTIRETY**

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

### **16.03.16 - PREMIUM ASSISTANCE**

#### **DOCKET NO. 16-0316-1501 (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. This action is authorized pursuant to Sections 56-202, 56-241, and 56-242, 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 19, 2015.

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 Premium Assistance chapter of rules is being repealed in its entirety. State law removed reference to the Children's Access Card Program, and the federally funded waiver known as "premium assistance" was discontinued, making these rules obsolete.

**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 negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

There is no anticipated fiscal impact to the state general fund or to any other funds due to this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not feasible since the rulemaking is non-negotiable. These rules are to comply with state law and federal regulations.

**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 Cindy Brock at (208) 364-1983.

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 26, 2015.

DATED this 7th Day of July, 2015.

Tamara Prisock  
DHW - Administrative Rules Unit  
450 W. State Street - 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
(208) 334-5500 phone; (208) 334-6558 fax  
E-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

**IDAPA 16.03.16 IS BEING REPEALED IN ITS ENTIRETY**

# IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

## 16.05.01 - USE AND DISCLOSURE OF DEPARTMENT RECORDS

DOCKET NO. 16-0501-1501

### 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 39-242, 39-5403, 56-221, 56-222, 56-1003, and 56-1004, Idaho Code (Joint rules).

**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 19, 2015.

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

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

The 2015 legislature passed S1077 which clarifies that the person with authority to designate disposition of a decedent's remains should be considered a person with a "direct and tangible interest" and thus is entitled to receive an official death certificate. This proposed rule amendment aligns these rules with the amended statute.

Specifically, this proposed rule adds the clarification that any person designated in Section 54-1142(1), Idaho Code, has "a direct and tangible interest" in the death certificate of a decedent in accordance with to Section 39-270(b), Idaho Code.

**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 negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

This rulemaking has no fiscal impact to the state general fund or any other funds.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. Negotiated rulemaking was deemed not feasible as this rule change is simple in nature.

**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 James Aydelotte (208) 334-4969.

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 26, 2015.

DATED this 7th Day of July, 2015.

Tamara Prisock  
DHW - Administrative Rules Unit  
450 W. State Street - 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
(208) 334-5500 phone; (208) 334-6558 fax  
E-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0501-1501**  
**(Only those Sections being amended are shown.)**

**011. DEFINITIONS FOR VITAL STATISTICS.**

The definitions provided in Subsection 011 of these rules apply to Vital Statistics and to the disclosure provisions of Section 39-270, Idaho Code. (3-20-04)

**01. Authorized Representative.** An attorney, physician, funeral director, a legally designated agent, or an entity whose purpose for obtaining a vital record is to pay direct benefits to a person with a direct and tangible interest defined in Subsection 011.03 of this rule. (3-20-04)

**02. Certificate.** A certificate of birth, death, stillbirth, marriage, or divorce, filed pursuant to law, excluding information contained in the statistical section of any record. (3-20-04)

**03. Individuals with a Direct and Tangible Interest.** Individuals who have a direct and tangible interest in a vital record are: (3-20-04)

**a.** The registrant and that person's spouse, children, parents, grandparents, grandchildren, siblings, or guardian; (3-20-04)

**b.** A person who is conducting genealogical research on the person's own family; (3-20-04)

**c.** Any other person who demonstrates that the record is needed for the determination or protection of that person's property right; (3-20-04)

**d.** An authorized representative of any of these individuals; (3-20-04)

**e.** The surviving next-of-kin if a deceased registrant has no other surviving family member listed in this subsection; (3-20-04)

**f.** The Idaho Attorney General, and state and federal prosecuting attorneys, if such attorney submits an affidavit affirming that the record is necessary in the furtherance of the attorney's official law enforcement duties, is not reasonably available from another source, and that reasonable steps will be taken to preserve the confidentiality of the record; *and* (3-20-04)( )

**g.** Any person, upon the order of an Idaho court of competent jurisdiction, where the court finds that disclosure of the record is necessary in the interests of justice; *and* (3-20-04)( )

**h.** Any person with the right to control the disposition of remains of a deceased person or to determine provisions not clearly covered in a prearranged funeral plan as authorized in Subsection (1) of Section 54-1142 Idaho Code, in accordance with Section 39-270(b), Idaho Code. ( )

**04. Parent.** Does not include a biological parent whose parental rights have been terminated. (3-20-04)

**05. Public Health.** The science and art of: (3-20-04)

**a.** Preventing disease, prolonging life, or promoting health and efficiency through organized community effort for the sanitation of the environment; (3-20-04)

**b.** The control of communicable infections; (3-20-04)

**c.** The education of the individual in personal hygiene; (3-20-04)

**d.** The organization of medical and nursing services for the early diagnosis and preventive treatment

of disease; and (3-20-04)

**e.** The development of the social machinery to ensure everyone a standard of living adequate for the maintenance of health, so organizing these benefits as to enable every citizen to realize his birthright of health and longevity. (3-20-04)

**06. Putative Father.** The biological father of a child as identified by himself, the natural mother, an adoption agency, or a court. (3-20-04)

**07. Registrar.** The state Registrar as defined in Section 39-241(18), Idaho Code. The mailing and street address for the state Registrar is Bureau of Vital Records and Health Statistics, 450 W. State St., 1st Floor, PO Box 83720, Boise, Idaho 83720-0036. (3-20-04)

**08. Research.** Organized scientific inquiry or examination of data in order to discover and interpret facts. (3-20-04)

**09. Statistical Purposes.** The collection, analysis, interpretation and presentation of masses of non-identifying numerical information. (3-20-04)

**IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION**

**26.01.06 - RULES GOVERNING COOPERATOR RECOGNITION AND SALE OF ADVERTISING**

**DOCKET NO. 26-0106-1501**

**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(s) 67-4210, 67-4223, and 67-4249, Idaho Code.

**MEETING SCHEDULE:** A public meeting(s) on the negotiated rulemaking will be held as follows:

<b>Tuesday, August 11, 2015 6 pm – 7 pm</b>	<b>Wednesday, August 19, 2015 6 pm – 7 pm</b>	<b>Monday, August 24, 2015 6 pm – 7 pm</b>
<b>Kathleen Ave, Suite 1 Coeur d’Alene, Idaho</b>	<b>4279 Commerce Circle, Suite B Idaho Falls, Idaho</b>	<b>5657 Warm Springs Ave. Boise, Idaho</b>

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

Persons may provide oral or written comments at the meeting.  
Written comments will be accepted through August 28, 2015.

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

The Idaho Department of Parks and Recreation (IDPR) proposes to establish in rule provisions regarding cooperator recognition, naming rights, and provisions regarding the sale of advertising.

**CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this negotiated rulemaking, contact Anna Canning at 208-514-2252. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Department of Parks and Recreation web site at the following web address: [www.parksandrecreation.idaho.gov](http://www.parksandrecreation.idaho.gov).

All written comments must be directed to the undersigned and must be delivered on or before August 28, 2015. Please send electronic submissions to [anna.canning@idpr.idaho.gov](mailto:anna.canning@idpr.idaho.gov).

DATED this 29th Day of July, 2015

Anna Canning, Management Services Administrator  
Idaho Department of Parks and Recreation  
5657 Warm Springs Avenue  
Boise, ID 83716-8700  
P.O. Box 87320, Boise ID 83720-0065  
Tel: (208) 514-2252  
FAX: (208) 334-5232

## IDAPA 27 - BOARD OF PHARMACY

### 27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY

DOCKET NO. 27-0101-1501

#### (SECOND) 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 is scheduled by the Idaho Board of Pharmacy, and will be held as follows:

**Thursday, August 13, 2015 at 9:00 a.m. (MDT)**

**Idaho State Capitol Building, Room WW53  
514 W. Jefferson St., Boise, ID**

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

All written comments received by August 10, 2015 will be included in the Board's distributed meeting materials for consideration. For those planning to attend the open, public meeting, written and verbal 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 Deputy Executive Director on or before August 11, 2015.

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

The Board is considering reiterating the "own use doctrine" into state law and creating a provision for statewide protocol agreements in declared emergencies. The Board is also considering updating rules including but not limited to those addressing telepharmacy, non-pharmacy registration fees, technician registration, foreign graduate intern hours, minimum standards of prescription drug orders, and controlled substance, such as storage.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES:** For assistance on technical questions concerning this negotiated rulemaking, contact Berk Fraser, Deputy Executive Director, at (208) 334-2356 or at [berk.fraser@bop.idaho.gov](mailto:berk.fraser@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 10, 2015 for inclusion in the Board's distributed meeting materials for consideration and August 11, 2015 for delivery to the Board at the meeting. Written comments may also be submitted in person on the day at the location listed above.

DATED this 9th Day of July 2015.

Berk Fraser, R.Ph.  
Deputy Executive Director  
Board of Pharmacy  
1199 W. Shoreline Ln., Ste. 303  
P. O. Box 83720  
Boise, ID 83720-0067  
Phone: 334-2356  
Fax: (208) 334-3536

**IDAPA 35 - IDAHO STATE TAX COMMISSION**  
**35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES**  
**DOCKET NO. 35-0102-1503**  
**NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is June 10, 2015.

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule for Sales Tax Administrative Rule 027, Computer Equipment, Software, and Data Services. The action is authorized pursuant to Sections 63-105(2), 63-3624(a), 63-3635, and 63-3039, Idaho Code.

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

House Bill 209 passed during the 2015 legislative session amending the definition of tangible personal property in Section 63-3616, Idaho Code, specifically addressing issues with computer software. The amendment limited the imposition of tax on a sale of a digital video, digital music, digital book, or digital game, when the purchaser has a permanent right to use the product. The rule has been amended to the extent necessary to address conflicts with House Bill 209. In particular, sections of the rule that indicate leases, rentals, or subscriptions to any of these digital products are taxable have been changed.

**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:

As noted in the Descriptive Summary above, House Bill 209 amended Section 63-3616, Idaho Code, the primary governing law for Rule 027. The passage of the bill created conflicts with the rule as soon as it went into effect on April 1, 2015. Since this deadline had already passed, the rule needed to be changed to comply with amendments to the governing law. The benefit to taxpayers is a reduction in confusion by eliminating conflicts between the code and rule.

**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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact McLean Russell at (208) 334-7531 or [mclean.russell@tax.idaho.gov](mailto:mclean.russell@tax.idaho.gov).

DATED this 8th Day of July, 2015.

McLean Russell  
Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Blvd, Plaza IV  
PO Box 36  
Boise, ID 83722-0410  
Tel: (208) 334-7531  
Fax: (208) 334-7844

**THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 35-0102-1503**  
**(Only those Sections being amended are shown.)**

**027. COMPUTER EQUIPMENT, SOFTWARE, AND DATA SERVICES (RULE 027).**  
Section 63-3616, Idaho Code

**01. Definitions.** For purposes of this rule, the following terms will have the following meanings: (4-11-15)

**a. Canned Software.** Canned software is prewritten software which is offered for sale, lease, or use to customers on an off-the-shelf basis with little or no modification at the time of the transaction beyond specifying the parameters needed to make the program run. Evidence of canned software includes the selling, licensing, or leasing of identical software more than once. Software may qualify as custom software for the original purchaser, licensee, or lessee, but become canned software when sold to others. Canned software includes program modules which are prewritten and later used as part of a larger computer program. (4-11-15)

**b. Computer.** A computer is a programmable machine or device having information processing capabilities and includes word, data, and math processing equipment, testing equipment, programmable microprocessors, and any other integrated circuit embedded in manufactured machinery or equipment. (4-11-15)

**c. Computer Hardware.** Computer hardware is the physical computer assembly and all peripherals, whether attached physically or remotely by any type of network, and includes all equipment, parts and supplies. (4-11-15)

**d. Computer Program.** A computer program, or simply a program, is a sequence of instructions written for the purpose of performing a specific operation in a computer. (4-11-15)

**e. Computer Software.** Computer software, or simply software, is defined as any of the following: (4-11-15)

i. A computer program; (4-11-15)

ii. Any part of a computer program; (4-11-15)

iii. Any sequence of instructions that operates automatic data processing equipment; or (4-11-15)

iv. Information stored in an electronic medium. (4-11-15)

**f. Custom Software.** Custom software is software designed and written by a vendor at the specific request of a client to meet a particular need. Custom software includes software which is created when a user purchases the services of a person to create software which is specialized to meet the user's particular needs. (4-11-15)

**g. Digital Product.** See definition for "Information Stored in an Electronic Medium" in Subsection 027.01.h. (4-11-15)

**h. Information Stored in an Electronic Medium.** Any electronic data file other than a computer program which can be contained on and accessed from storage media. The term includes audio and video files and any documents stored in an electronic format. For purposes of this rule, the term is interchangeable with "digital product." (4-11-15)

**i. Load and Leave Method.** A method of software delivery in which the vendor or an agent of the vendor loads software onto the user's storage media at the user's location but does not transfer storage media containing the software to the user. (4-11-15)

**j. Remotely Accessed Computer Software.** Computer software that a user accesses over the internet, over private or public networks, or through wireless media, and the user only has the right to use or access the software by means of a license, lease, subscription, service, or other agreement. (4-11-15)

**k.** Storage Media. Storage media include, but are not limited to, hard disks, optical media discs, diskettes, magnetic tape data storage, solid state drives, and other semiconductor memory chips used for nonvolatile storage of information readable by a computer. (4-11-15)

**02. Computer Hardware.** The sale or lease of computer hardware is a sale at retail. Sales tax is imposed based on the total purchase price, lease, or rental charges. See Rule 024 of these rules. (4-11-15)

**03. Canned Software.** When canned software is sold and delivered on storage media to the user and the storage media remains in the possession of the user, it is tangible personal property and the sale is taxable. If the storage media is sold along with other computer hardware, any canned software loaded on the storage media is tangible personal property the sale of which is taxable. If canned software is sold and delivered electronically or by the load and leave method, it is not tangible personal property and the sale is not taxable. If canned software is sold using a physical package but the package does not contain the canned software on storage media, it is not tangible personal property and the sale is not taxable. For example, if a printed key code is sold in a box that allows the user to download canned software and activate the canned software using the key code, the sale is not taxable. (4-11-15)

**a.** If canned software is loaded on a user's computer but has minimal or no functionality without connecting to the provider's servers over the internet, the sale of that canned software may still be taxable based upon the delivery method of the canned software as outlined in Subsection 027.03 of this rule. (4-11-15)

**b.** Special rules apply to digital music, digital books, digital videos, and digital games. See Subsections 027.06 through 027.08 of this rule. (4-11-15)

**c.** When a sale of canned software is taxable, tax applies to the entire amount charged to the customer for canned software. If the consideration consists of license fees, royalty fees, right to use fees or program design fees, whether for a period of minimum use or for extended periods, all fees are includable in the purchase price subject to tax. (4-11-15)

**04. Remotely Accessed Computer Software.** Remotely accessed computer software is not tangible personal property and charges to use or access such software are not subject to tax. (4-11-15)

**05. Maintenance Contracts.** Maintenance contracts sold in connection with the sale or lease of canned software generally provide that the purchaser will be entitled to receive periodic program enhancements and error correction, often referred to as upgrades, either on storage media or through remote telecommunications. The maintenance contract may also provide that the purchaser will be entitled to telephone or on-site support services. (3-6-00)

**a.** If the maintenance contract is required as a condition of the sale, lease, or rental of canned software, the gross sales price is subject to tax if the software to which the contract applies is subject to tax. Tax applies whether or not the charge for the maintenance contract is separately stated from the charge for software. In determining whether an agreement is optional or mandatory, the terms of the contract shall be controlling. (4-11-15)

**b.** If the maintenance contract is optional to the purchaser of canned software: (3-30-07)

**i.** Then only the portion of the contract fee representing upgrades is subject to sales tax if the fee for any maintenance agreement support services is separately stated and the upgrades are delivered on storage media; (4-11-15)

**ii.** If the fee for any maintenance agreement support services is not separately stated from the fee for upgrades and the upgrades are delivered on storage media, then fifty percent (50%) of the entire charge for the maintenance contract is subject to sales tax; (4-11-15)

**iii.** If the maintenance contract only provides upgrades delivered on storage media, and no maintenance agreement support services, then the entire sales price of the contract is taxable; (4-11-15)

**iv.** If the maintenance contract only provides support services, and the customer is not entitled to or does not receive any canned computer software upgrades or enhancements, then the sale of the contract is not taxable.

(3-30-07)

c. If an optional software maintenance contract provides for software updates to be delivered electronically but also allows a customer to receive software updates on storage media, no portion of the contract is taxable unless the customer actually receives software updates on storage media. (4-11-15)

**06. Digital Products.** Digital music, digital books, and digital videos are tangible personal property regardless of the delivery or access method, but only if the purchaser has a permanent right to use the digital music, digital books, or digital videos. Where the purchaser has a permanent right to use these digital products, the sales, leases, and rentals of these digital products are ~~is~~ taxable. Whether the user has the right to stream or download these digital products, the sale, lease, or rental of these digital products is taxable ~~Leases or rentals of these digital products are not taxable.~~ (4-11-15)(6-10-15)T

a. Other than digital music, digital books, or digital videos, information stored in an electronic medium is tangible personal property only if it is transferred to the user on storage media that is retained by the user. (4-11-15)

b. Special rules apply to digital games. See Subsection 027.08 of this rule. (4-11-15)

**07. Digital Subscriptions.** Digital subscriptions consist of an agreement with a seller that grants a user the right to obtain or access digital products in a fixed quantity or for a fixed period of time. Digital subscriptions ~~granting access to a database of digital music, digital books, or digital videos~~ are not ~~regardless of the method of access or delivery.~~ (4-11-15)(6-10-15)T

~~a. Subscription charges to a digital newspaper, magazine, or other periodical are not taxable. (4-11-15)~~

~~b. Subscription charges to an online research database that includes products other than digital music, digital books, or digital videos, are not taxable. The charges are not taxable even if the user may download content from the database onto the user's storage media. (4-11-15)~~

**08. Digital Games.** Digital games are tangible personal property regardless of access or delivery method ~~and, therefore,~~ but only if the purchaser has a permanent right to use the digital game. Where the purchaser has a permanent right to use a digital game, the sale of ~~a~~ the digital game is taxable. If a digital game requires the internet for some or all of its functionality, the sale of that digital game is still taxable if the purchaser has a permanent right to use the digital game. If a user pays a periodic subscription charge to play a digital game ~~that requires a constant connection over the internet to a remote server,~~ the periodic subscription charge is not taxable. If a user pays a periodic charge for a gaming service that enables certain functionality such as multiplayer capability in one (1) or more digital games, the periodic charge is not taxable. ~~If a user purchases virtual currency that enables additional content or progress in a digital game, the purchase of the virtual currency is taxable.~~ (4-11-15)(6-10-15)T

**09. Reports Compiled by a Computer.** The sale of statistical reports, graphs, diagrams, microfilm, microfiche, photorecordings, or any other information produced or compiled by a computer and sold or reproduced for sale in substantially the same form as it is produced is a sale of tangible personal property and is taxable regardless of the means of transfer. If a report is compiled from information furnished by the same person to whom the finished report is sold, the report will be subject to tax unless the person selling the report performs some sort of service regarding the data or restates the data in substantially different form than that from which it was originally presented. (3-6-00)

a. Example: An accountant uses a computer to prepare financial statements from a client's automated accounting records. No tax will apply since what is sought is the accountant's expertise and knowledge of generally accepted accounting principles. (7-1-93)

b. Example: A company sells mailing lists which are transferred to the user on storage media that remains in the possession of the user. The seller compiles all the mailing lists from a single data base. Since the same data base is used for all such mailing lists it is not custom software. Therefore, the sale is subject to tax. (4-11-15)

**c.** Example: An auto parts retailer hires a data processing firm to optically scan and record its parts book on a computer disk. No analysis or other service is performed regarding the data. Essentially, this is the same as making a copy of the parts books and the sale is, therefore, subject to tax. (7-1-93)

**d.** When additional copies of records, reports, manuals, tabulations, etc., are provided, tax applies to the charges made for the additional copies. Additional copies are all copies in excess of those produced simultaneously with the production of the original and on the same printer, where the copies are prepared by running the same program, by using multiple printers, by looping the program, by using different programs to produce the same output, or by other means. (7-1-93)

**e.** Charges for copies produced by means of photocopying, multilithing, or by other means are subject to tax. (7-1-93)

**10. Online or Remote Data Storage.** Charges to store data on storage media owned and controlled by another party is a nontaxable service. (4-11-15)

**11. Training Services.** Separately stated charges for training services are not subject to the tax, unless they are incidental services agreed to be rendered as a part of the sale of tangible personal property as provided by Rule 011 of these rules. (3-6-00)

**a.** When separate charges are made for training materials, such as books, manuals, or canned software, sales tax applies. (7-1-93)

**b.** When training materials are provided at no cost to the purchaser in conjunction with the sale of tangible personal property, the training materials are considered to be included in the sales price of the tangible personal property. (7-1-93)

**c.** When no tangible personal property, computer hardware or canned software, is sold and training materials are provided at no charge to the customer, the provider of the training is the consumer of the training materials and must pay sales tax or accrue and remit use tax. (3-6-00)

**12. Custom Software.** The transfer of title, possession, or use for a consideration of custom software is not subject to sales tax. Custom software is specified, designed, and created by a vendor at the specific request of a client to meet a particular need. Custom software includes software which is created when a user purchases the services of a person to create software which is specialized to meet the user's particular needs. The term includes those services that are represented by separately stated and identified charges for modification to existing canned software which are made to the special order of the customer, even though the sales, lease, or license of the existing program remains taxable. Examples of services that do not result in custom software include loading parameters to initialize program settings and arranging preprogrammed modules to form a complete program. (7-1-93)

**a.** Tax does not apply to the sale, license, or lease of custom software regardless of the form or means by which the program is transferred. The tax does not apply to the transfer of custom software or custom programming services performed in connection with the sale or lease of computer equipment if such charges are separately stated from the charges for the equipment. (3-6-00)

**b.** If the custom programming charges are not separately stated from the sale or lease of equipment, they will be considered taxable as part of the sale. (7-1-93)

**c.** Custom software includes a program prepared to the special order of a customer who will use the program to produce and sell or lease copies of the program. The sale of the program by the customer for whom the custom software was prepared will be a sale of canned software. (7-1-93)

**13. Purchases for Resale.** Sales tax does not apply when computer hardware or software is purchased for resale. A properly executed resale certificate must be on file. See Rule 128 of these rules. (3-6-00)

## IDAPA 35 - IDAHO STATE TAX COMMISSION

### 35.01.05 - IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES

#### DOCKET NO. 35-0105-1503

#### 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 63-105 and 63-2427, Idaho Code. In addition, rulemaking is authorized by Sections 63-2424, 63-2442A, and 49-439, 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 19, 2015.

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:

Motor Fuels Tax Rule 004, Incorporation by Reference. This rule will be changed to update the incorporated references and move the reference to Administrative and Enforcement Rule 110 from Rule 510.

Motor Fuels Tax Rule 115, When the Gasoline Tax Rate Increases, Use Conversion Factor to Adjust Annual Gaseous Fuels Permit Fees. This rule will be deleted. HB 132 passed in the 2015 legislative session eliminated the gaseous fuels permit program and the rule is no longer required.

Motor Fuels Tax Rule 132, Licensed Gaseous Fuel Distributor's Reports. The portions of the rule that refer to the gaseous fuel permit or gaseous fuel decal will be deleted. HB 132 passed in the 2015 legislative session eliminated the gaseous fuels permit program. The gaseous fuel distributor recordkeeping instructions for the gaseous fuel permit program are no longer required.

Motor Fuels Tax Rule 410, Adoption of International Fuel Tax Agreement. This rule will be deleted. When the International Fuel Tax Agreement was incorporated into Rule 004, this rule became unnecessary.

Motor Fuels Tax Rule 510, Application and Reporting of the Petroleum Transfer Fee. Paragraph 7 of this section will be reworded. It needs to be amended since the limited distributors license was included in Section 63-2427C by HB 0043 during the 2015 Legislative session. Paragraph 10 of this section is being deleted because Administrative and Enforcement Rule 110 is referenced incorrectly.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes were required by HB 0132 that was passed during the 2015 Legislative session (Rules 115 and 132); is no longer necessary because of change to another rule (Rule 410); is required to update previously incorporated references (Rule 004); or to make technical corrections to the rule (Rule 510).

**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 Rule 004, INCORPORATION BY REFERENCE:

The International Fuel Tax Agreement is being incorporated by reference because it is adopted by Section 63-2442A(1), Idaho Code.

The International Registration Plan is being incorporated by reference because it is adopted by Section 49-435(1), Idaho Code. The State Tax Commission references the International Registration Plan when giving the record requirements when auditing these registrants as required by 49-439, Idaho Code.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rules, contact Don Williams, (208) 334-7855.

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 26, 2015.

DATED this 5th Day of August 2015.

Don W. Williams  
Tax Policy Specialist  
State Tax Commission  
P.O. Box 36  
Boise, ID 83722-0410  
Tel: (208) 334-7855  
Fax: (208) 334-7844  
[don.williams@tax.idaho.gov](mailto:don.williams@tax.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0105-1503**  
**(Only those Sections being amended are shown.)**

**004. INCORPORATION BY REFERENCE (RULE 004).**

Sections 63-2434, 63-2442A, 41-4909, and 49-439, Idaho Code. The following documents are incorporated by reference: ~~(4-11-15)~~( )

**01. Income Tax Administration and Enforcement Rules.** These rules incorporate the sections of IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," relating to the statutes authorized by Section 63-2434, Idaho Code. In addition, Administration and Enforcement Rule 110, (IDAPA 35.02.01.110) relating to requests for declaratory rulings, is adopted as part of these rules, as if set out in full. ~~(4-11-15)~~( )

**02. International Fuel Tax Agreement.** These rules incorporate the International Fuel Tax Agreement (IFTA) governing documents: the IFTA Articles of Agreement (revised July 1, 2013), the IFTA Procedures Manual (revised January 1, 2013~~5~~), and the IFTA Audit Manual (revised January 20, 2013~~2~~). IFTA is an international agreement between jurisdictions to encourage use of the highway system by uniformly administering fuels use tax laws. The IFTA governing documents are equally binding on all IFTA member jurisdictions and licensees. Motor fuels users licensed or required to be licensed to operate under an Idaho IFTA license must comply with all applicable rules contained in these rules. These documents can be found on the IFTA website at <http://www.iftach.org>. ~~(4-11-15)~~( )

**03. International Registration Plan.** These rules incorporate the International Registration Plan (IRP) governing documents: The IRP Plan (revised January 1, 2014~~5~~) and IRP Audit Procedures Manual (revised July 1, 2013). IRP is an international registration reciprocity agreement. The documents are included to aid the Commission in complying with IRP registration application audits authorized in Chapter 4, Title 49, Idaho Code. These documents can be found on the IRP website at <http://www.irponline.org>. ~~(4-11-15)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

~~115. WHEN THE GASOLINE TAX RATE INCREASES, USE CONVERSION FACTOR TO ADJUST ANNUAL GASEOUS FUELS PERMIT FEES (RULE 115).~~

*Section 63-2424, Idaho Code.*

*The following conversion factors for each vehicle weight class should be multiplied by the new tax rate for gasoline found in Section 63-2402, Idaho Code, and rounded to nearest dollar to adjust the annual gaseous fuels permit fees.*

VEHICLE WEIGHT	CONVERSION FACTOR
<i>Zero (0) to eight thousand (8,000) lbs</i>	<i>- Two hundred thirty eight (238)</i>
<i>Eight thousand and one (8,001) to sixteen thousand (16,000) lbs</i>	<i>- Three hundred fifty seven (357)</i>
<i>Sixteen thousand and one (16,001) to twenty six thousand (26,000) lbs</i>	<i>- Seven hundred fourteen (714)</i>
<i>Twenty six thousand and one (26,001) lbs and above</i>	<i>- Eight hundred thirty three (833)</i>

*(5-3-03)*

~~116~~ -- 119. (RESERVED)

**(BREAK IN CONTINUITY OF SECTIONS)**

**132. LICENSED GASEOUS SPECIAL FUELS DISTRIBUTOR'S REPORTS (RULE 132).**

Section 63-2424, Idaho Code

**01. Monthly Reports.** Every licensed gaseous special fuels distributor (distributor) shall file with the State Tax Commission a monthly tax report and supporting detailed schedules on forms prescribed by the State Tax Commission. Such reports shall contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report shall include the following information together with such other information as the State Tax Commission may require: *(3-20-14)( )*

**a.** The total taxable gallons of gaseous special fuels delivered into the supply tank of registered licensed motor vehicles; *(3-30-07)( )*

**b.** The taxable gallons after deduction of a two percent (2%) allowance. See Rule 140 of these rules; *(4-5-00)*

~~**c.** The tax computation;~~ *(7-1-99)*

~~**d.** The bad debt amount, if any. (This credit or debit only applies to debt from fuels taxes that have been written off for income tax purposes in the distributor's records before December 1, 2007.) See Rule 140 of these rules;~~ *(4-2-08)*

~~**e.** The gaseous fuels permit fees (Attach to the report the yellow copy of the receipt for each gaseous fuels permit sold during that month); and~~ *(4-5-00)*

~~**f.** The net tax due;~~ *(4-5-00)*

~~**g.** A receipt schedule reporting the total number of taxable gallons of gaseous special fuels sold must be attached to the distributor's report.~~ *(4-5-00)( )*

**02. Report Due and Payment Required.** The report shall be due on or before the last day of the month following the month to which the report relates together with the payment of any tax, annual gaseous fuels permit fees, penalty or interest due. See Rule 010 of these rules relating to method of payment and requirement for payments of one hundred thousand dollars (\$100,000) or more. *(7-1-99)( )*

**03. Failure to Pay Tax and Permit Fees.** Any distributor required to pay the tax or permit fee imposed by Section 63-2424, Idaho Code, who fails to pay such tax or permit fee shall be liable to the State Tax Commission

for the amount of tax ~~or permit fee~~ not paid plus any applicable penalty or interest. The State Tax Commission may collect such amounts in the manner provided in Section 63-2434, Idaho Code. (3-20-14)(\_\_\_\_)

**04. Receipt of Gaseous Fuels.** The ~~special motor~~ fuels tax is not imposed on gaseous ~~special~~ fuels when the fuels are received, as defined in Section 63-2403, in Idaho Code. Propane and natural gas are presumed to be tax-exempt fuels unless delivered into the main supply tank of a ~~registered licensed~~, or required to be ~~registered licensed~~, motor vehicle. (3-20-14)(\_\_\_\_)

~~**05. Annual Fees for Gaseous Fuels Permits.** Persons operating vehicles powered by gaseous fuels may pay an annual fee for a gaseous fuels permit instead of paying the special fuel taxes at the time propane or natural gas is purchased. Distributors who sell these permits shall issue a permit that will be in the form of a decal to be displayed in a conspicuous spot visible from the outside of the permitted vehicle. The fees for gaseous fuels permits are based on the gross vehicle weight of the vehicles and are set by Rule 115 of these rules as is mandated by Section 63-2424(2), Idaho Code. The gaseous fuels permit is valid for the annual permit period of July 1 through June 30 of the following year. The annual permit period displayed on the decal will be the year in which the decal expires.~~ (3-20-14)

**06.5. Documentation of Exempt Sales of Gaseous Special Fuels Delivered into Motor Vehicles.** Gaseous ~~special~~ fuels delivered into the fuel supply tank of a ~~registered licensed~~, or required to be ~~registered licensed~~, motor vehicle are taxable except for: (3-20-14)(\_\_\_\_)

**a.** Government. Gaseous ~~special~~ fuels used by vehicles owned or leased, and operated by the federal government, or by an instrumentality of the state of Idaho, including all of its political subdivisions, are exempt from the ~~special motor~~ fuels tax on gaseous ~~special~~ fuels. In this case, the distributor must record the name of the governmental entity, the license or identification number of the vehicle, and the type of vehicle on the sales document. (3-20-14)(\_\_\_\_)

~~**b.** Gaseous Fuels Decal.~~ ~~Gaseous fuels dispensed into the fuel supply tank of a motor vehicle displaying a valid Gaseous Fuels Decal are exempt from tax. For the exempt status to be valid, the distributor must record the purchaser's name, address, vehicle license number, and the words "gaseous fuels decal" or the decal number on the sales document.~~ (3-20-14)

~~**eb.** Manned and Unmanned Stations.~~ A manned station must have a representative at the point of sale to visually inspect the vehicle, ~~including the decal when required~~, in order to make exempt sales of gaseous ~~special~~ fuels. Exempt sales of gaseous ~~special~~ fuels from an unmanned station are allowed when each sale is recorded by other visual means. When a distributor cannot meet the previous two requirements, it must request approval from the State Tax Commission before making exempt sales of gaseous ~~special~~ fuels. (3-20-14)(\_\_\_\_)

~~**07. Completion of Gaseous Fuels Receipt Book(s).** The following information is required to be recorded by a gaseous fuels distributor in his gaseous fuels receipt book for each gaseous fuels permit (decal) sold:~~ (4-5-00)

- ~~**a.** The date;~~ (4-5-00)
- ~~**b.** The amount;~~ (4-5-00)
- ~~**c.** One (1) of the following weight classes:~~ (4-5-00)
  - ~~**i.** Zero eight thousand pounds (0-8,000 lbs.); or~~ (4-5-00)
  - ~~**ii.** Eight thousand one sixteen thousand pounds (8,001-16,000 lbs.); or~~ (4-5-00)
  - ~~**iii.** Sixteen thousand one twenty six thousand pounds (16,001-26,000 lbs.); or~~ (4-5-00)
  - ~~**iv.** Twenty six thousand one pounds (26,001 lbs.) and over;~~ (4-5-00)
- ~~**d.** The current month;~~ (4-5-00)

- ~~e. The annual permit period; (4-5-00)~~
- ~~f. The customer's name and vehicle license plate number; (4-5-00)~~
- ~~g. The name and license number of the gaseous fuels distributor who is selling the permit; and (4-5-00)~~
- ~~h. The signature of the salesperson. (4-5-00)~~
- ~~08. **Annual Reconciliation of Gaseous Fuels Receipt Books and Decals.** A distributor who sells gaseous fuels permits must reconcile its account with the State Tax Commission for the annual permit period ending June 30, by July 31, of the same year. Distributors may begin ordering decals and receipt books in May for the upcoming annual permit period. The following is required to be received by the State Tax Commission for reconciliation: (4-5-00)~~
- ~~a. All unused/unsold gaseous fuels decals; (4-5-00)~~
- ~~b. All voided receipts (white and yellow copies) not previously submitted with the distributor report; (4-5-00)~~
- ~~c. All receipt books (pink copies must be intact); and (4-5-00)~~
- ~~d. A completed gaseous fuels reconciliation form which includes: (4-5-00)~~
- ~~i. The number of decals ordered for the annual permit period; (4-5-00)~~
- ~~ii. The number of decals sold for the annual permit period; (4-5-00)~~
- ~~iii. The balance of decals at the end of the annual permit period; and (4-5-00)~~
- ~~iv. The number, if any, of decals lost or destroyed. If decals are lost or destroyed, a statement describing the circumstances of the loss or destruction must accompany the distributor's gaseous fuels permit reconciliation. (4-5-00)~~
- ~~09. **Assessment for Unaccounted for Decals.** An amount equal to the annual fee of the highest weight class will be assessed for each decal not accounted for during the annual reconciliation, unless there is clear and convincing evidence the decal was destroyed or mutilated. (3-20-14)~~
- ~~10. **Sales of Gaseous Fuels Decals by The State Tax Commission.** The State Tax Commission may act as a seller of gaseous fuels decals. The State Tax Commission will maintain records and report sales of decals in a manner sufficient to reconcile its accounts. (3-20-14)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

~~401. -- 409. (RESERVED)~~

~~**410. ADOPTION OF INTERNATIONAL FUEL TAX AGREEMENT (RULE 410):**~~

~~Under the authority of Sections 63-2434, 63-3039, 67-5203, and 63-2442A, Idaho Code, the State Tax Commission and motor fuels users licensed or required to be licensed pursuant to the International Fuel Tax Agreement (IFTA), are governed by the provisions of the IFTA Articles of Agreement (Agreement), Article I, Section R120 Governing Documents (revised January 1, 2013). This section is incorporated by reference. The Agreement, Procedures Manual and Audit Manual are equally binding on all IFTA members jurisdictions and licensees. Motor fuels users who operate under an Idaho IFTA license must comply with all applicable rules contained in these rules. (3-20-14)~~

~~41.~~ 419. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

**510. APPLICATION AND REPORTING OF THE PETROLEUM TRANSFER FEE (RULE 510).**

[Section 41-4909, Idaho Code](#)

**01. Application.** (6-23-94)

**a.** The Petroleum Transfer Fee applies to the first receipt of any petroleum or petroleum product within this state. The amount of the fee is one cent (\$0.01) for each gallon of petroleum or petroleum product received. The fee shall be paid by the distributor who receives any petroleum or petroleum product not excluded from the fee, unless the fee has previously been paid on the same petroleum or petroleum product. Only licensed Idaho fuel distributors may receive refunds or credits of the transfer fee. The refunds or credits must be claimed on the distributor report required in Section 63-2406, Idaho Code, according to Rule 180. (3-20-14)

**b.** The legal incidence of the fee is on the first distributor which receives any petroleum or petroleum product. This distributor is required to report and pay the transfer fee to the State Tax Commission. The fee is not required to be separately stated on any invoice, receipt, or other billing document. A choice to state separately the fee does not change its legal incidence or its nature. (3-20-14)

**02. Receipt of Petroleum Products.** Receipt of petroleum or petroleum products shall be determined according to Section 63-2403, Idaho Code. Receipt is determined by the movement of petroleum or petroleum products from permanent storage facility (terminal) or crossing the border of this state. Storage of petroleum or petroleum products is incidental to the movement of the petroleum or petroleum products. (3-20-14)

**03. Exemption to Application of the Transfer Fee.** The Petroleum Transfer Fee does not apply to petroleum or petroleum products that are: (6-23-94)

**a.** Returned to the refinery or pipeline terminal. (6-23-94)

**b.** Exported from this state. No fuel will be considered exported, unless the distributor can prove the export by documentation required by Rule 140 of these rules. (7-1-99)

**c.** Received by a railroad or railroad corporation or any employee of them. Petroleum or petroleum products sold by a licensed distributor to a railroad or railroad corporation or any employee of them is subject to the Petroleum Transfer Fee unless the petroleum or petroleum products are "received" by the railroad or railroad corporation as defined in Section 63-2403, Idaho Code. The exclusion for railroad employees applies only when the activity relating to the fuel is part of their employment with the railroad or railroad corporation. (7-1-99)

**d.** Received in retail containers of fifty-five (55) gallons or less or petroleum products to be packaged or repackaged into retail containers of fifty-five (55) gallons or less, if such containers are intended to be transferred to the ultimate consumer of the petroleum or petroleum products. (6-23-94)

**04. Casualty Loss and Two Percent (2%) Allowance Not Deductible.** All petroleum and petroleum products received in this state that are not within an exemption or exclusion listed in this rule are subject to the fee, without further deductions or discounts despite the product's use. Deductions allowed to motor fuel distributors in Section 63-2407, Idaho Code, for casualty loss and the two percent (2%) allowance are not deductions applicable to the Petroleum Transfer Fee. (3-20-14)

**05. Petroleum and Petroleum Products.** The products subject to the Petroleum Transfer Fee are crude oil or any fraction of it that is liquid at a temperature of sixty (60) degrees Fahrenheit and a pressure of fourteen and seven tenths (14 7/10) psi. These products are all products refined from crude oil including but not limited to motor gasoline, alcohol blended fuels, such as E-10 and E-85, including the alcohol content of blended fuel, diesel fuel (#1 - #6), biodiesel blended fuels, such as B-20, including the biodiesel content of the blended fuel, heating oil,

aviation fuel, naphtha, naphtha-type jet fuel, kerosene-type jet fuel (JP#1 - #8), motor oil, brake fluid, tractor fuel, distillate fuel oil, stove fuel, unfinished oils, turpentine substitutes, lamp fuel, diesel oils (#1 - #6), engine oils, railroad oils, kerosene, commercial solvents, lubricating oils, fuel oil, boiler fuel, refinery fuel, industrial fuel, bunker fuel, residual fuel oil, road oils, and transmission fluids. Ethanol (E00), natural gasoline, and biodiesel (B00) are also defined as petroleum and petroleum products that are subject to the Petroleum Transfer Fee. (4-7-11)

**06. Exclusion of Petroleum and Petroleum Products on Which The Fee Has Previously Been Paid.** Used oil as defined by 40 CFR Part 279 (July 1, 2000) is presumed to be comprised of petroleum or petroleum products on which the transfer fee has previously been paid when generated in Idaho. The distributor shall not report used oil generated in Idaho on the distributor report nor shall a distributor pay or receive a credit of the transfer fee on used oil generated in Idaho. When used oil is not generated in Idaho it is presumed to be subject to the transfer fee. The distributor must report and pay the transfer fee unless an exemption or exclusion applies. (3-20-14)

**07. ~~Licensed Motor Fuel Distributors License and Limited Distributor Licenses.~~** Any person holding a ~~motor fuel distributor's~~ license issued by the State Tax Commission under ~~Section 63-2427A Chapter 24, Title 63, Idaho Code,~~ is also licensed for the Petroleum Transfer Fee. No additional license is required. Any person who receives any petroleum or petroleum product in this state, but who is not a licensed distributor nor required to obtain a ~~motor fuel distributor~~ license ~~under Section 63-2427A, Idaho Code,~~ shall apply to the State Tax Commission for a limited ~~distributor~~ license. The limited ~~distributor~~ license is only for reporting the Petroleum Transfer Fee ~~and is not a license for any purpose under Chapter 24, Title 63, Idaho Code.~~ (7-1-99)(    )

**08. Reporting Requirements.** (6-23-94)

**a.** ~~Distributors licensed under Section 63-2427A, Idaho Code,~~ **A motor fuel distributor** shall report and pay the Petroleum Transfer Fee with the distributor's report required by Section 63-2406, Idaho Code. For fuel subject to the taxes imposed by Sections 63-2402 and 63-2408, Idaho Code, the Petroleum Transfer Fee shall be included in the report in which the distributor is required to report the tax on the same fuel. (5-3-03)(    )

**b.** Persons holding a limited ~~distributor~~ license shall file a monthly report with the State Tax Commission on forms prescribed by the State Tax Commission on or before the last day of the month following the month to which the report relates. (7-1-99)(    )

**c.** The provisions of Rule 130 of these rules, apply to reports of the Petroleum Transfer Fee. (7-1-99)

**09. Payment.** (6-23-94)

**a.** Payment of the fee is due on the due date of the report. For method of payment, including required use of electronic funds transfer, see Rule 010 of these rules. (6-23-94)

**b.** Any partial payment or collection of amounts shown due or required to be shown due on a distributor's report, plus any additional amount of penalty or interest due, shall be allocated between the motor fuels tax and the Petroleum Transfer Fee in the same proportion that the liability for the tax and the fee bear to the total liability. (6-23-94)

**10. ~~Incorporation of Other Relevant Rules.~~** ~~Section 41-4909, Idaho Code, incorporated by reference various provisions of the Income Tax Act, Chapter 30, Title 63, Idaho Code, to apply to the administration and enforcement of the Petroleum Transfer Fee. For applying and construing those sections as they apply to the Petroleum Transfer Fee, the Administration and Enforcement Rules relating to those sections of the Income Tax Act are adopted as part of these rules, as if set out in full. In addition, Administration and Enforcement Rule 110, (IDAPA 35.02.01.110) relating to requests for declaratory rulings, is adopted as part of these rules, as if set out in full.~~ (4-6-05)

**IDAPA - DEPARTMENT OF ADMINISTRATION**

**38.05.01 - RULES OF THE DIVISION OF PURCHASING**

**DOCKET NO. 38-0501-1501**

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

**EFFECTIVE DATE:** The effective date of the temporary rule is June 6, 2015.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-5717(11), 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 19, 2015.

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

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

The term “purchasing authority” is used in the rules revised by the 2015 legislative session. The term “purchasing activity” remains in the rules where revisions were not approved. This temporary and proposed rule provides a consistent definition for both terms and blends the revised and unrevised rules. This rulemaking establishes a definition for the terms “purchasing activity” and “purchasing authority.”

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

The 2015 Legislature accepted only a few sections in a proposed global revision to IDAPA 38.05.01. The partial revision resulting from this action created an unintended ambiguity in the use of the term “purchasing authority.” This temporary and proposed rulemaking defines the term and resolves the ambiguity created by the Legislature’s partial revision of IDAPA 38.05.01.

**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 negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: NA

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

**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 Bill Burns, Administrator, (208) 332-1610.

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 26, 2015.

DATED this 29th Day of June, 2015.

Bill Burns, Administrator  
Department of Administration  
650 W. State St., Room 100  
P. O. Box 83720  
Boise, ID 83720-0003  
Tel: (208) 332-1610  
Fax: (208) 334-2307

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 38-0501-1501  
(Only those Sections being amended are shown.)**

**011. DEFINITIONS.**

- 01. Acquisition.** The process of procuring or purchasing property by the state of Idaho. (3-15-02)
- 02. Administrator.** The administrator for the division of purchasing. The administrator is the chief buyer. (3-15-02)
- 03. Agency.** All offices, departments, divisions, bureaus, boards, commissions and institutions of the state, including the public utilities commission, but excluding other legislative and judicial branches of government, and excluding the governor, the lieutenant-governor, the secretary of state, the state controller, the state treasurer, the attorney general, and the superintendent of public instruction. (3-15-02)
- 04. Alternate.** Property or services that are not at least a functional equal in features, performance or use of the brand, model or specification designated as the standard. (3-15-02)
- 05. Bid.** A written offer that is binding on the bidder to perform a contract to purchase or supply property or services in response to an invitation to bid. (3-15-02)
- 06. Bidder.** A vendor who has submitted a bid or quotation on specific property. (3-15-02)
- 07. Brand Name or Equal Specification.** This means a specification that uses a brand name to describe the standard of quality, performance or other characteristics being solicited and that invites the submission of equivalent products. (3-15-02)
- 08. Brand Name Specification.** This means a specification calling for one (1) or more products by manufacturers' names or catalogue numbers. (3-15-02)
- 09. Buyer.** An employee of the division of purchasing designated as a buyer, contract administrator, purchasing agent, contracting officer, or similar designation by the administrator, including, where appropriate, the administrator and other management personnel. The term also includes authorized employee(s) of a purchasing activity. (3-15-02)
- 10. Component.** An item of property normally assembled or incorporated with other items into a unified productive whole at the site of use, which items belong to functional classes that may be interchangeable units of similar function but differing operational or productive capabilities. (3-15-02)
- 11. Concession Services.** The granting by the purchasing activity of a right, franchise, authority, property interest or option to a contractor, regardless of whether an expenditure of state or other funds occurs. (3-15-02)

**12. Consultant Services.** This means work, rendered by either individuals or firms who possess specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis or advice in formulating or implementing programs or services or improvements in programs or services, including but not limited to such areas as management, personnel, finance, accounting and planning. The consultant's services, opinions or recommendations will be performed according to the consultant's methods without being subject to the control of the agency except as to the result of the work. (3-15-02)

**13. Contract.** Contract means any state written agreement, including a solicitation or specification documents and the accepted portions of the solicitation, for the acquisition of property. Generally, the term is used to describe term contracts, definite or indefinite quantity or delivery contracts or other acquisition agreements whose subject matter involves multiple payments and deliveries. A contract shall also include any amendments mutually agreed upon by both parties. (3-15-02)

**14. Contractor.** A bidder or offeror who has been awarded an acquisition contract. (3-15-02)

**15. Director.** The chief officer of the department of administration. (3-15-02)

**16. Division.** The division of purchasing of the department of administration as established by Section 67-5714, Idaho Code. Whenever a purchase is made by the division on behalf of another agency, the division shall be deemed to be acting as the agent for such agency. (3-15-02)

**17. Document.** When used in these rules, may include electronic documents. (3-15-02)

**18. Equal.** Property that meets or exceeds the quality, performance and use of the brand, model or specifications in the invitation to bid, request for proposals or request for quotation. (3-15-02)

**19. Equipment.** Items of personal property that have a normal useful life expectancy or measurable service life of two (2) or more years. (3-15-02)

**20. Formal Sealed Procedure.** Procedure by which the buyer solicits competitive sealed bids or competitive sealed proposals by means of an invitation to bid or request for proposals. (3-15-02)

**21. Goods.** Items of personal property including concession services, not qualifying as equipment, parts or supplies. (3-15-02)

**22. Information Technology Property.** Includes, but is not limited to, all present forms of computer hardware, computer software or services used or required for automated data processing, computer related office automation or telecommunications. (3-15-02)

**23. Invitation to Bid.** Means all documents, whether attached or incorporated by reference, utilized for soliciting formal sealed bids. (3-15-02)

**24. Lowest Responsible Bidder.** The responsible bidder whose bid conforms in all material respects to the invitation to bid or request for proposals and reflects the lowest acquisition price to be paid by the state; except that when specifications are valued or comparative performance examinations are conducted, the results of such examinations and the relative score of valued specifications will be weighed, as set out in the specifications, in determining the lowest acquisition price. (3-15-02)

**25. Offeror.** A vendor who has submitted a proposal in response to a request for proposals for property to be acquired by the state. (3-15-02)

**26. Open Contract.** A contract awarded by the state of Idaho through the division of purchasing to one (1) or more vendors who have agreed to allow all agencies to procure or purchase specified property under the terms and conditions set forth in the contract. (4-7-11)

**27. Person.** Any business, individual, union, committee, club or other organization or group of individuals, not including a state or public agency. (3-15-02)

**28. Procurement.** The process of obtaining property for state use by lease, rent or any manner other than by purchase or gift. (3-15-02)

**29. Professional Services.** Work rendered by an independent contractor whose occupation is the rendering of such services and who has a professional knowledge of some department of learning or science used by its practical application to the affairs of others or in the practice of an art founded on it, including but not limited to accounting and auditing, legal, medical, nursing, education, engineering, actuarial, architecture, veterinarian, and research. The knowledge is founded upon prolonged and specialized intellectual training that enables a particular service to be rendered. The word “professional” implies professed attainments in special knowledge as distinguished from mere skills. (3-15-02)

**30. Property.** Goods, services, parts, supplies and equipment, both tangible and intangible, including, but nonexclusively, designs, plans, programs, systems, techniques and any rights and interests in such property. Includes concession services and rights to access or use state property or facilities for business purposes. (3-15-02)

**31. Proposal.** A written response including pricing information to a request for proposals that describes the solution or means of providing the property requested and which proposal is considered an offer to perform a contract in full response to the request for proposals. Price may be an evaluation criterion for proposals, but will not necessarily be the predominant basis for contract award. (3-15-02)

**32. Public Agency.** Has the meaning set forth in Section 67-2327, Idaho Code. (3-15-02)

**33. Purchase.** The act of acquiring or procuring property for state use or the result of an acquisition action. (3-15-02)

**34. Purchase Order.** See also definition of Contract, typically used to acquire property. It is a notification to the contractor to provide the stated property, required material, equipment, supplies or services under the terms and conditions set forth in the purchase order. It may include the form of the state’s acceptance of a bidder’s proposal or bid. (3-15-02)

**35. Purchasing Activity or Authority.** The division or an agency ~~delegated that~~ exercising authority based on a delegation of authority by the administrator ~~for~~ or as provided under these rules to an individual within the division or the agency to engage in the conduct of purchasing. (~~3-15-02~~)(6-6-15)T

**36. Quotation.** An offer to supply property in response to a request for quotation and generally used for small or emergency purchases. (3-15-02)

**37. Request for Proposals.** Includes all documents, whether attached or incorporated by reference, utilized for soliciting competitive proposals and is generally utilized in the acquisition of services or complex purchases. (3-15-02)

**38. Request for Quotation.** The document, form or method generally used for purchases solicited in accordance with small purchase or emergency purchase procedures. (3-15-02)

**39. Requisition.** A standard state or agency specific form that serves as a purchasing request and that requests that the purchasing activity acquire the stated requirements. (3-15-02)

**40. Sealed.** Includes bids electronically sealed and submitted in accordance with requirements or standards set by the division and bids manually sealed and submitted. (3-15-02)

**41. Sealed Procedure Limit.** That dollar amount, as established by these rules, above which the formal sealed bid procedure will be used. Said amount may be lowered by the administrator to maintain full disclosure or competitive purchasing or otherwise achieve overall state efficiency and economy. (3-15-02)

**42. Services.** Personal, general, professional or consultant services, in excess of personnel regularly employed for whatever duration and/or covered by personnel system standards, for which bidding or competition is

not prohibited or made impractical by statute, rules and regulations or generally accepted ethical practices. (3-15-02)

**43. Small Purchase.** An acquisition that costs less than the sealed procedure limit. (3-15-02)

**44. Solicitation.** Means an invitation to bid, a request for proposals or other document issued by the purchasing activity for the purpose of soliciting bids, proposals, or offers to perform a contract. (3-15-02)

**45. Specifications.** The explicit requirements furnished with an invitation to bid, request for proposals or request for quotations upon which a purchase order or contract is to be based. Unless specifically provided in a solicitation, specifications do not include solicitation conditions or contractual terms including, without limitation, items such as vendor qualification requirements, bid closing times, delivery time or payment terms. (3-15-02)

**46. State.** This means the state of Idaho including each agency unless the context implies other states of the United States. (3-15-02)

**47. Supplies.** Items of personal property having an expendable quality or during their normal use are consumed and that require or suggest acquisition in bulk. (3-15-02)

**48. Telecommunications.** Means all present and future forms of hardware, software or services used or required for transmitting voice, data, video or images. (3-15-02)

**49. Vendor.** A person or entity capable of supplying property to the state. (3-15-02)

**50. Written.** When used in these rules, may include an electronic writing. (3-15-02)

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.01 - RULES GOVERNING DEFINITIONS REGARDING OVERLEGAL PERMITS

DOCKET NO. 39-0301-1501

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

**EFFECTIVE DATE:** The effective date of the temporary rule is July 23, 2015.

**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:** 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 19, 2015.

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 change is necessary so that the Idaho Transportation Department (ITD) is in compliance with the passage of HB 70, passed during the 2015 Idaho Legislative Session, and that the rules and statutes affecting ITD are consistent. The passage of HB 70 required a change to the definition of excess weight as well as modifying other definitions.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The change ensures consistency between this administrative rule and the passage of HB 70. It also confers a benefit.

**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 67-5221(j), Idaho Code, negotiated rulemaking was not conducted, because the rule change simply changes and modifies definitions.

**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 Regina Phipps, Vehicle Size and Weight Specialist, (208) 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 August 26, 2015.

DATED this 30th Day of June, 2015.

Ramon S. Hobdey-Sanchez  
Governmental Affairs Program Specialist  
Idaho Transportation Department

[ramon.hobdey-sanchez@itd.idaho.gov](mailto:ramon.hobdey-sanchez@itd.idaho.gov)  
Phone: (208) 334-8810  
3311 W. State St., PO Box 7129, Boise ID 83707-1129

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 39-0301-1501  
(Only those Sections being amended are shown.)**

**010. DEFINITIONS.**

- 01. Accessories.** Additional parts of the single item load that have been removed to reduce width, length or height. (10-2-89)
- 02. Administrative Cost.** The government's cost of processing, issuing and enforcing a permit. (10-2-89)
- 03. Analysis.** A mathematical study of a vehicle or combination of vehicles and the stress they cause over bridges or specific sections of highways conducted by a professional engineer. (10-2-89)
- 04. Annual.** Twelve (12) consecutive months. (10-2-89)
- 05. Automobile Transporter.** See Idaho Code 49-102. (3-29-12)
- 06. Base Width.** The measurement below the eaves of a manufactured home, modular building or office trailer. (8-24-94)
- 07. Boat Transporter.** See Idaho Code 49-103. (3-29-12)
- 08. Cargo Unit.** A full truck, a semi-trailer, a full trailer, or a semi-trailer converted to a full trailer by means of a dolly or a converter gear mounting a fifth wheel. A dromedary tractor equipped with conventional fifth wheel, not stinger steered, shall be excluded from the definition of a cargo unit. (9-14-92)
- 09. Convoy.** A group of two (2) or more motor vehicles traveling together for protection or convenience. (8-24-94)
- 10. Department.** Idaho Transportation Department. (9-14-92)
- 11. Designated Agent.** An employee or relative of the farmer. (3-29-12)
- 12. Dromedary Tractor.** See Idaho Code 49-105. (3-29-12)
- 13. Economic Hardship.** The loss of a substantial amount of money caused by economic changes. (9-14-92)
- 14. Emergency Movement.** A vehicle or vehicle combination hauling a load traveling to the site of an emergency for the purpose of aiding in eliminating the emergency. (9-14-92)
- 15. Escort Vehicle.** See Pilot Vehicle. (3-29-12)
- 16. Excess Weight.** Vehicle combinations hauling reducible loads operating on Interstate Routes any highway 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) per tandem, not to exceed the weight limit for any group of two (2) or more consecutive axles established by Section 49-1001, Idaho Code, and for the front steer axle not to exceed the manufacturer's load rating per tire or the load rating of the axle or twenty thousand (20,000) pounds per axle, whichever is less. The maximum allowable load for all other vehicle tires shall not ~~to~~ exceed six hundred (600) pounds per inch width of tire for vehicles manufactured after July 1, 1987, or not to exceed eight hundred (800) pounds per inch width of tire for vehicles manufactured prior to that date as established by Section 49-1002, Idaho

Code.

~~(8-24-94)~~(7-23-15)T

17. **Extra-Length.** Any vehicle combination in excess of the legal limits but not more than one hundred fifteen (115) feet as established in Section 49-1010, Idaho Code, which normally haul reducible loads. (3-29-12)
18. **Extra-Ordinary Hazard.** Any situation where the traveling public's safety or the capacity of the highway system is endangered. (9-14-92)
19. **Farm Tractor.** See Idaho Code 49-107. (3-29-12)
20. **Gross Vehicle Weight.** See Idaho Code 49-108. (3-29-12)
21. **Heavily Loaded.** Exceeding legal weight or hauling a load which obstructs the driver's view. (9-14-92)
22. **Heavy Duty Wrecker Truck.** A motor vehicle designed and used primarily for towing disabled vehicles. (9-14-92)
23. **Height.** The total vertical dimension of a vehicle above the ground surface including any load and load-holding device thereon. (9-14-92)
24. **Implement of Husbandry.** See Idaho Code 49-110. (3-29-12)
25. **Incidentally Operated.** See Idaho Code 49-110. (3-29-12)
26. **Legal.** In compliance with the Idaho Code on size and weight. (9-14-92)
27. **Length.** The total longitudinal dimension of a single vehicle, a trailer, or a semi-trailer. Length of a trailer or semi-trailer is measured from the front of the cargo-carrying unit to its rear, exclusive of all overhang and any appurtenances listed in IDAPA 39.03.06, "Rules Governing Allowable Vehicle Size". (3-29-12)
28. **Light Truck.** See Idaho Code 49-121. (3-29-12)
29. **Manufactured Home.** A structure, constructed according to HUD/FHA mobile home construction and safety standards, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 U.S.C. 5401 et seq. Similarly constructed vehicles used permanently or temporarily for offices, advertising, sales, display or promotion of merchandise or services are included in this definition. (8-24-94)
30. **Mobile Home.** A structure similar to a manufactured home, but built to a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code) dated June 15, 1975. (8-24-94)
31. **Modular Buildings.** A facility designed as a building or building section, the construction of which is constructed to standards contained in the Uniform Building Code (UBC), adopted by Section 39-4109, Idaho Code. (8-24-94)
32. **Non-Reducible.** A load that consists of a single piece (a machine and its accessories loaded separately is considered non-reducible also). (8-24-94)
33. **Off-Tracking.** The difference in the path of the first inside front wheel and of the last inside rear

- wheel as a vehicle negotiates a curve. (8-24-94)
- 34. Office Trailer.** See definition of Manufactured Homes. (8-24-94)
- 35. Overall Combination Length.** The total length of a combination of vehicles, i.e. truck tractor-semitrailer-trailer combination, measured from front bumper of the motor vehicle to the back bumper or rear extremity of the last trailer including the connecting tongue(s). (8-24-94)
- 36. Overall Length.** The total length of a combination of vehicles, i.e. truck tractor-semitrailer-trailer combination, measured from front bumper of the motor vehicle to the back bumper or rear extremity of the last trailer including the connecting tongue(s) plus any load overhang. (3-29-12)
- 37. Overdimensional.** Any vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (8-24-94)
- 38. Overheight.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (8-24-94)
- 39. Overlegal.** Any vehicle, vehicle combination or load which exceeds the limits established in Idaho Code. (8-24-94)
- 40. Overlegal Permit.** A document issued by the Idaho Transportation Department which authorizes the movement of vehicles or loads on the state highway system in excess of the sizes and weights allowed by Sections 49-1001, 49-1002, or 49-1010, Idaho Code. (7-23-15)T
- ~~**401. Overlength.** Any load non-reducible in length being hauled or towed that is in excess of the limits established in Section 49-1010, Idaho Code. (8-24-94)~~
- ~~**412. Oversize.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (8-24-94)~~
- ~~**423. Overweight.** A single vehicle or a vehicle combination hauling or towing a non-reducible load whose weight is in excess of the limits established in Section 49-1001, Idaho Code eighty thousand (80,000) pounds and/or legal axle weights. (8-24-94)(7-23-15)T~~
- ~~**434. Overwidth.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (8-24-94)~~
- ~~**445. Pilot Vehicle.** Passenger cars or light trucks equipped as specified in IDAPA 39.03.12, "Rules Governing Safety Requirements of Overlegal Permits". (3-29-12)~~
- ~~**456. Reducible Load.** A single item or multiple items for transport which could reasonably be repositioned or physically altered so that the load conforms to legal size and weight dimensions. The determination of ability to reduce or reconfigure the load primarily depends on the intended disposition of the contents of the load upon delivery to its destination (i.e. made into smaller pieces). (8-24-94)(7-23-15)T~~
- ~~**467. Single Axle.** An assembly of two (2) or more wheels whose centers are in one (1) transverse vertical plane or may be included between two (2) parallel transverse planes forty (40) inches apart extending across the full width of the vehicle. (8-24-94)~~
- ~~**47. Special Permit.** A document issued by the Idaho Transportation Department which authorizes the movement of vehicles or loads on the state highway system in excess of the sizes and weights allowed by Sections 49-1001, 49-1002 or 49-1010, Idaho Code. (8-24-94)~~
- 48. Steering Axle.** The axle or axles on the front of a motor vehicle that are activated by the operator to directly accomplish guidance or steering of the motor vehicle and/or combination of vehicles. (8-24-94)

**49. Stinger-Steered.** A truck-tractor semi-trailer combination where the kingpin is located five (5) feet or more to the rear of the centroid of the rear axle(s). (8-24-94)

**50. Tandem Axle.** Any two (2) axles whose centers are more than forty (40) inches but not more than ninety-six (96) inches apart and are individually attached to or articulated from, or both, a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles. (8-24-94)

**51. Tridem Axle.** Any three (3) consecutive axles whose extreme centers are not more than one hundred forty-four (144) inches apart, and are individually attached to or articulated from, or both, a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles. (8-24-94)

**52. Variable Load Suspension Axle.** See Idaho Code 49-123. (3-29-12)

**53. Vocational Vehicle.** A vehicle specifically designed to enable the operator to perform specific tasks none of which are primarily for the purpose of transporting loads. Cranes, loaders, scrapers, motor graders, drill rigs are examples of vocational vehicles. (8-24-94)

**54. Width.** The total outside transverse dimension of a vehicle including any load or load-holding devices thereon, but excluding any appurtenances listed in IDAPA 39.03.06, "Rules Governing Allowable Vehicle Size". (3-29-12)

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.22 - RULES GOVERNING OVERLEGAL PERMITS FOR EXTRA-LENGTH, EXCESS WEIGHT, AND UP TO 129,000 POUND VEHICLE COMBINATIONS

DOCKET NO. 39-0322-1501

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

**EFFECTIVE DATE:** The effective date of the temporary rule is July 23, 2015.

**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, and Sections 49-1004, 49-1004A and 49-1010, 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 19, 2015.

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 change is necessary so that the Idaho Transportation Department (ITD) is in compliance with the passage of HB 70, passed during the 2015 Idaho Legislative Session, and that the rules and statutes affecting ITD are consistent. The passage of HB 70 required a change to this rule, so that tire limitation restrictions match those now currently under Idaho Code. It allows more flexibility in the amount of weight carried on steer axles.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: the change ensures consistency between this administrative rule and the passage of HB 70. It also confers a benefit.

**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 67-5221(j), Idaho Code, negotiated rulemaking was not conducted because the rule change is simple in nature.

**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 Regina Phipps, Vehicle Size and Weight Specialist, (208) 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 August 26, 2015.

DATED this 30th Day of June, 2015.

Ramon S. Hobdey-Sanchez  
Governmental Affairs Program Specialist  
Idaho Transportation Department

[ramon.hobdey-sanchez@itd.idaho.gov](mailto:ramon.hobdey-sanchez@itd.idaho.gov)  
Phone: (208) 334-8810  
3311 W. State St., PO Box 7129, Boise ID 83707-1129

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 39-0322-1501  
(Only those Sections being amended are shown.)**

**200. DESIGNATED ROUTES FOR VEHICLE COMBINATIONS UP TO ONE HUNDRED TWENTY-NINE THOUSAND (129,000) POUNDS.**

In addition to the requirements listed in Sections 300 and 400, vehicle combinations operating up to one hundred twenty-nine thousand (129,000) pounds, must meet the following requirements: (7-1-13)

**01. Brakes.** All axles shall be equipped with brakes that meet the Federal Motor Carrier Safety Regulations. (7-1-13)

**02. Permits.** Permits will be vehicle specific and will 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. (7-1-13)

**03. Designated Routes.** 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. (4-1-14)

**a. Magenta-Coded Routes.** 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. ~~(4-1-14)~~(7-23-15)T

**b. Brown-Coded Routes.** 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. ~~(4-1-14)~~(7-23-15)T

**c.** 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. (4-1-14)

**04. 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: (4-1-14)

**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. The requestor will forward the form to the adjacent local jurisdictions. (4-1-14)

**b.** Request Review/Analysis Process. (4-1-14)

**i.** Once submitted, the request will be reviewed for completeness and the department's analysis will be completed for engineering and safety criteria. The criteria shall include assessment of pavement and bridges to allow legal tire, axle, and gross weight limits as per Section 49-1001 and 49-1002, Idaho Code, and route off-track requirements which includes road width and curvature. Additional consideration shall be given to traffic volumes and other safety factors. (4-1-14)

**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. (4-1-14)

- iii. The Idaho Transportation Board Sub-committee will make a recommendation (proceed to hearing, reject, or request additional information) to the Idaho Transportation Board based upon the department's analysis. (4-1-14)
- iv. If the Idaho Transportation Board recommends that the request proceed to hearing, it shall instruct the Chief Engineer to schedule a hearing in the district(s) where the requested route is located. The hearing will be conducted pursuant to the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. (4-1-14)
- 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. (4-1-14)
- vi. The Department will notify the requestor of the Chief Engineer's Preliminary Order and post to the Idaho Transportation Department Web site. (4-1-14)
- 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. (4-1-14)
- 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. (4-1-14)

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

**300. OPERATING REQUIREMENTS FOR EXTRA-LENGTH, EXCESS WEIGHT, AND UP TO ONE HUNDRED TWENTY-NINE THOUSAND (129,000) POUNDS VEHICLE COMBINATIONS.**

All vehicle combinations shall be subject to the following conditions, limitations, and requirements: (7-1-13)

- 01. 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. (7-1-13)
- 02. Power Unit.** The power unit of all vehicle combinations shall have adequate power and traction to maintain a minimum of twenty (20) miles per hour under normal operating conditions on any up-grade over which the combination is operated. (7-1-13)
- 03. Connecting Devices.** Fifth wheel, drawbar, and other coupling devices shall be as specified by Federal Motor Carrier Safety Regulations, Part 393. (4-7-11)
- 04. Hazardous Travel Conditions Restrictions.** Extreme caution in the operation of permitted vehicle combinations shall be exercised when hazardous conditions exist. 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. (7-1-13)
- 05. 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)
- 06. 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)

**07. 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. (7-1-13)

**08. Tire Limitations.** Single axles on 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 six hundred (600) pounds, the manufacturers rating or legal weights whichever is less. Load for inch width of tire for the front steer axle may not exceed the manufacturer's load rating per tire or the load rating of the axle or twenty thousand (20,000) pounds per axle whichever is less. ~~(7-1-13)~~(7-23-15)T

**09. Brakes.** Brakes shall meet the Federal Motor Carrier Safety Regulations. (7-1-13)

**IDAPA 42 - IDAHO WHEAT COMMISSION**  
**42.01.01 - RULES OF THE IDAHO WHEAT COMMISSION**  
**DOCKET NO. 42-0101-1501**  
**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 22-3309, 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 19, 2015.

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 changes are necessary to update the rules to proper format and to clarify terminology. The assessment rate was increased in 2013 after surveying wheat growers and finding support was 3-to-1 in favor of a higher tax for the purpose of investing more in research and industry infrastructure. The quarterly return forms create an administrative burden for the Commission and will no longer be provided. The rule changes increase the amount per bushel from \$.02 to \$.03½ cents to the Commission under commodity credit loans; bring rules in line with required rules format; correct terminology; clarify elevator operator reporting; and delete reference to the quarterly return forms.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule changes are simple in nature. Additionally, significant feedback was provided by industry stakeholders through regular meetings of the Commission.

**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 proposed rule, contact Blaine Jacobson, Executive Director, at (208) 334-2353.

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 26, 2015.

DATED this 10th Day of July, 2015.

Blaine Jacobson, Executive Director  
Idaho Wheat Commission  
821 W. State St.  
P. O. Box 83720  
Boise, ID 83720-0099  
Tel: (208) 334-2353  
Fax: (208) 334-2505

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 42-0101-1501**  
**(Only those Sections being amended are shown.)**

**000. LEGAL AUTHORITY.**

~~These~~ In accordance with Section 22-3309, Idaho Code, the Idaho Wheat Commission has promulgated rules ~~are~~ authorized by implementing the provisions of Title 22, Chapter 33, Idaho Code. (7-1-93)(    )

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be ~~known~~ cited in full as IDAPA 42.01.01, "Rules of the Idaho Wheat Commission," IDAPA 42, Title 01, Chapter 01. (    )

**02. Scope.** ~~It shall be Pursuant to Section 22-3301, Idaho Code, the policy rules of the Idaho Wheat Commission to promote the public health and welfare of the citizens of our state by providing means for the protection, promotion, study, research, analysis and development of markets concerning the growing and marketing of Idaho wheat. To implement this policy, the Idaho Wheat Commission will utilize all existing information and all agencies, private, state, or federal, having to do with protection, marketing or utilization of wheat. It will not duplicate nor usurp the functions of other agencies, but will rather assist and coordinate their activities. It will attempt to develop additional functions not now included in the work of other agencies.~~ Pursuant to Section 22-3301, Idaho Code, the policy rules of the Idaho Wheat Commission to promote the public health and welfare of the citizens of our state by providing means for the protection, promotion, study, research, analysis and development of markets concerning the growing and marketing of Idaho wheat. To implement this policy, the Idaho Wheat Commission will utilize all existing information and all agencies, private, state, or federal, having to do with protection, marketing or utilization of wheat. It will not duplicate nor usurp the functions of other agencies, but will rather assist and coordinate their activities. It will attempt to develop additional functions not now included in the work of other agencies. (7-1-93)(    )

**002. WRITTEN INTERPRETATIONS.**

The Commission may have written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents are available for public inspection at the Commission office. (    )

**003. ADMINISTRATIVE APPEALS.**

The Idaho Rules of Administrative Procedure of the Attorney General on contested cases, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure," Section 100, et seq., shall apply. (    )

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into these rules. (    )

**005. OFFICE INFORMATION.**

**01. Street Address.** The office is located at 821 W. State Street, Boise, Idaho 83702. (    )

**02. Mailing Address.** The mailing address is P. O. Box 83720, Boise, Idaho 83720-0099. (    )

**03. Telephone Number.** The telephone number is (208) 334-2353. (    )

**04. Facsimile Number.** The fax number is (208) 334-2505. (    )

**05. Website Address.** The website address is www.idahowheat.org. (    )

**06. Office Hours.** The office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, excluding state holidays. (    )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

Commission records are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (    )

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

**010. DEFINITIONS.**

The definitions set forth in Section 22-3303, Idaho Code, shall apply to this chapter. (    )

~~002~~11 -- 099. (RESERVED)

100. ~~TIME OF FILING~~ **WHEAT TAX RETURNS FORM.**

01. **Forms.** Wheat ~~assessment~~ **Tax Return** forms ~~will be~~ **are** available at the ~~Idaho Wheat~~ Commission office for use by the first purchaser (buyer) of Idaho grown wheat in transmitting the Idaho wheat ~~assessment tax~~ to the ~~Idaho Wheat~~ Commission. (7-1-93)(    )

02. **Procedures.** At the end of each quarter, buyers, shall execute the Wheat Tax Return (~~F~~form ~~Number 1~~). One (1) copy of the form and a check covering the entire amount of all wheat tax collections made during the quarter shall be mailed to the Executive Director, ~~Idaho Wheat of the~~ Commission, ~~821 W. State St., Boise, Idaho, 83702,~~ not later than the fifteenth day of the month at the end of each quarter (October 15, January 15, April 15, and July 15, respectively) of each calendar year. If no wheat has been purchased during any quarter, one (1) copy of ~~the~~ **Wheat Tax Return** ~~F~~form ~~Number 1~~ declaring that no wheat has been purchased, shall be signed and mailed to the Executive Director of the ~~Idaho Wheat~~ Commission. (7-1-93)(    )

*[Proposed Sections 101 through 105 are being moved and renumbered from Codified Sections 303 through 307 respectively]*

~~303~~101. **MIXTURES.**

When the grain is ~~bought~~ **purchased** as wheat, the tax must be collected on the full net weight of the grain ~~bought~~ **purchased**. The tax must also be collected on any mixtures containing fifty percent (50%) or more of wheat. (7-1-93)(    )

~~304~~102. **NET WEIGHT.**

The tax ~~is to~~ **must** be collected on the net weight of the wheat after deduction of dockage and smut, and not upon the gross weight. (7-1-93)(    )

~~305~~103. **TRUCKERS.**

When a trucker ~~buys~~ **purchases** wheat from a grower, it is his responsibility under the law to deduct the tax and remit the amount to the Commission. The trucker in such instances is liable for the deduction of tax. Those who purchase wheat from such truckers are not directly liable for the deduction of tax, but buyers should make sure that the trucker has in fact ~~bought~~ **purchased** the wheat from a grower and is not the person who produced the wheat. (7-1-93)(    )

~~306~~104. **WHEAT DELIVERED ON ACCOUNT OR EXCHANGED FOR OTHER WHEAT.**

When wheat is delivered and credited to the account of a grower who is purchasing mixed feeds and other commodities, such transactions are really sales of the wheat delivered. In these cases, the buyer must deduct the tax from the amount credited to the grower and remit to the Commission just as though the sale had been made for cash. On the other hand, if the grower delivers the wheat in exchange for other wheat and no sale of the wheat is involved, the tax should not be deducted. (7-1-93)

~~307~~105. **END USE.**

Idaho wheat is subject to tax when it is first sold or contracted into "commercial channels." Beside traditional uses of wheat for flour milling, domestic and export, commercial channels include sale of wheat for use as feed, or any industrial or chemurgic use. (7-1-93)(    )

~~107~~6. -- 199. (RESERVED)

200. **PENALTY FOR LATE PAYMENT OF WHEAT TAX.**

01. **Interest Penalties.** Any person or firm who makes payment of wheat tax collections to the ~~Idaho~~ **Wheat** Commission at a date later than the fifteenth day of the month at the end of each quarter as prescribed in Subsection 100.02 of these rules, shall be subject to a late payment penalty of fifteen percent (15%) per annum on the amount due, unless that person or firm, within fifteen (15) days of the date, notifies the ~~Idaho Wheat~~ Commission in writing of any delay in payment and submits the payment of wheat tax collections within thirty (30) days of the

prescribed due date.

~~(7-1-93)~~( )

**02. Additional Penalties.** The ~~Idaho Wheat~~ Commission shall be entitled, in addition to the penalty of fifteen percent (15%) per annum, to recover from the buyer, all costs, fees, and reasonable attorney's fees incurred in collecting the wheat tax collections and penalty as prescribed in Section 22-3315, Idaho Code. ~~(7-1-93)~~( )

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

**300. WHEAT UNDER COMMODITY CREDIT CORPORATION LOANS.**

**01. Payee.** The ~~Wheat~~ Commission will be named as payee to receive ~~two~~ **three and one half** cents (\$.23½) per bushel when the producer's note and loan agreement is executed by the ~~County Agricultural Stabilization and Conservation Farm Service office Agency (FSA)~~. In such cases, the lending agency will send the tax directly to the ~~Wheat~~ Commission. When the producer's note and loan agreement shows that the tax has been deducted and sent to the ~~Wheat~~ Commission, it will not be necessary for the buyer to deduct the tax when the wheat is purchased. ~~(7-1-93)~~( )

**02. Tax.** Since the legislature has made the tax a lien prior to all other liens and encumbrances of the wheat, it is necessary for the grain buyer to make sure the tax has been paid in order to obtain clear title to the wheat. The tax should be deducted in all cases where there is not evidence that the tax was previously paid by a lending agency. In case errors occur and the tax is deducted by a lending agency and again deducted by a grain buyer, refund will be made by the ~~Idaho Wheat~~ Commission. ~~(7-1-93)~~( )

***[Codified Section 301 is being moved and renumbered to Proposed Section 400]***

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

**~~302. WHEAT COMMISSION FORM NUMBER 1.~~**

~~Form Number 1 shall be used to file quarterly returns required by these rules. One (1) copy to be sent to the Commission at the end of each quarter.~~ ~~(7-1-93)~~

***[Codified Sections 303 through 307 are being moved and renumbered to Proposed Sections 101 through 105 respectively]***

***[Proposed Section 400 is being moved and renumbered from Codified Section 301]***

**~~301~~**400. INVOICES AND RECORDS.****

**01. Invoices.** Pursuant to Section 22-3316, Idaho Code, ~~provides for~~ **the Purchaser shall issue separate** invoices to ~~be delivered to~~ the grower for each purchase. The ~~Wheat~~ Commission **is will** not providing a special form for this purpose and suggests that buyers use the final settlement vouchers of accounts of sale commonly used in Idaho. The amount of the Idaho state wheat tax deducted must ~~be~~ shown on each settlement voucher. ~~(7-1-93)~~( )

**02. Final Settlement Vouchers.** Buyers are not required to send the Commission copies of their settlement vouchers issued to individual growers, but should keep copies available for examination by representatives of the Commission ~~at a later date upon request~~. Where it is not the practice to issue settlement vouchers of accounts of sale, buyers should be sure that they have accurate records of all wheat ~~bought~~ **purchased** from growers and the amount of wheat ~~bought~~ **purchased** from each grower. ~~(7-1-93)~~( )

**03. Elevator Operator Reports.** Elevator operators must submit to the Commission, at least annually, **a report listing the growers who delivered wheat to their elevator each year. Such reports must include the name and contact information for each grower.** ( )

**~~308~~**401. -- 999. (RESERVED)****

## **IDAPA 46 - BOARD OF VETERINARY MEDICINE**

### **46.01.01 - RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE**

**DOCKET NO. 46-0101-1501**

#### **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 54-2105, 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 19, 2015.

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 current system for reporting and processing continuing education credits for veterinarians and veterinary technicians is time-consuming and requires unnecessary handling by both the Board and licensees. The proposed rulemaking will amend Board Rule 15 to simplify the reporting and processing of continued education credits. Licensees and certificate holders will retain documentation for a specified period and a random auditing system will be implemented to monitor compliance with continuing education obligations.

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

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

**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 3, 2015 Idaho Administrative Bulletin, **Vol. 15-6, page 67**.

**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 proposed rule, contact Jodie Ellis, Executive Director, at (208) 332-8588.

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 26, 2015.

DATED this 6th Day of July, 2015.

Jodie Ellis, Executive Director  
Board of Veterinary Medicine  
2270 Old Penitentiary Rd.  
P. O. Box 7249  
Boise, ID 83707  
Tel: (208) 332-8588  
Fax: (208) 334-2170

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 46-0101-1501**  
**(Only those Sections being amended are shown.)**

**015. MANDATORY CONTINUING VETERINARY EDUCATION.**

**01. Statement of Purpose.** It is of primary importance to the public that veterinarians continue their veterinary education throughout the period of their active practice of veterinary medicine. These rules establish the minimum continuing veterinary education requirements necessary for veterinarians to maintain a license to engage in the practice of veterinary medicine in the state of Idaho. (7-1-97)

**02. Approved Courses.** (3-30-01)

**a.** Approved courses include: (3-30-01)

i. Those courses and providers listed on the American Association of Veterinary State Board's Continuing Education Registry; and (3-30-01)

ii. Those courses and providers approved by the Board. (3-30-01)

**b.** Board approval for a continuing education course may be obtained by sending a written request to the Board office and enclosing copies of the course agenda, dates, times, locations, and requested number of credit hours in management and veterinary medicine. Copies of the sign-in and sign-out sheets for each approved course are to be supplied to the Board office following completion of the course by the course provider. (3-30-01)

**03. Education Requirements.** (7-1-93)

**a.** Minimum Requirement. Each active veterinarian in the state of Idaho shall complete a minimum of twenty (20) credit hours of accredited continuing veterinary education activity in each and every two (2) year period following the date of his admission to the practice of veterinary medicine in this state. (3-30-07)

**b.** Credit Requirements. The following are the minimum and maximum credits that may be earned for each reporting period and the number of credits that may be obtained by participating in on-line or correspondence courses. (3-30-07)

i. A minimum of fourteen (14) hours of continuing education in veterinary medicine, surgery, and dentistry. (3-30-07)

ii. A maximum of six (6) hours of continuing education in management. (3-30-07)

iii. Veterinarians may obtain a maximum of fifteen (15) credit hours through approved on-line or correspondence courses. (3-30-07)

**c.** Attendance Period. The attendance period shall be based upon the fiscal year (July 1 to June 30). (3-18-99)

**d.** Report. Each veterinarian subject to these rules shall file a written report with the Board Executive Director, on a form prescribed by the Board, as provided in this rule. (7-1-93)( )

i. Content of Report. The report shall set forth the record of the veterinarian's compliance with these rules during the two (2)-year attendance period and shall contain at least all information requested by the Board, including: (7-1-93)( )

(1) A list of the approved courses attended or taken; (7-1-93)( )

- (2) The dates of attendance or completion of the courses; (7-1-93)(    )
- (3) The sponsoring organization; (7-1-93)
- and (4) The hours attended or completed for each course, rounded to the nearest one-half (1/2) of an hour; (7-1-93)(    )
- (5) The veterinarian's signature, under penalty of perjury. (7-1-93)

~~ii. Place of Filing. The report of compliance with the continuing veterinary education requirement shall be filed with the secretary of the Board. (3-30-01)~~

~~iii. Time of Filing. The report shall be submitted or postmarked no later than June 30 in the year the veterinarian is required to complete the continuing education requirement. (4-2-08)~~

iii. Retention of Original Documentation. The supporting documentation for compliance with continuing education requirements shall not be submitted with the report. Rather, the veterinarian shall retain original documentation of attendance or completion of twenty (20) credit hours of approved courses at least until December 31 following the two (2)-year renewal period covered by the courses. (    )

e. Auditing. Each year the Board will conduct an audit of renewals. (    )

i. The percentage of renewals audited in any given year will be determined by the Board in its sound discretion. (    )

ii. Within thirty (30) days of notification of an audit, a veterinarian shall provide to the Board all documentation supporting attendance or completion of the courses reported. (    )

**04. Exemptions.** Upon a showing of good cause by a licensee to the Board, the Board may exempt such licensee from any, all or part of the continuing education requirement or may grant an extension of the required period. Written requests for exemptions from continuing education credits shall be sent to the Board office. (3-30-07)

**05. Credit for Attendance.** Continuing veterinary education credits may be earned by attending or presenting approved courses in continuing veterinary education. (3-20-14)

**a. Credits.** One (1) credit hour shall be given for each fifty (50) minutes actually spent by the active member in attendance at an accredited, domestic or foreign, course. No credit shall be given for: (7-1-97)

i. Time spent in introductory remarks, coffee and lunch breaks, business meetings or other activities not involving the educational aspects of the course. (3-18-99)

ii. Any course attended before admission to practice veterinary medicine in Idaho. (7-1-93)

iii. Journal and magazine articles, videos or correspondence courses, unless specially approved by the Board. (7-1-97)

**b.** In cases of solo presentation, the presenter of an approved course shall be entitled to claim one (1) credit hour for each fifty (50) minutes of actual course instruction. By way of limitation, in no case shall the presenter be allowed more than eight (8) credit hours for any particular course or substantially related topic during the applicable two (2) year reporting period, regardless of how many times the course is offered or given. (3-20-14)

**c.** In cases of panel presentations, the number of continuing credit hours each panel member is entitled to claim shall be calculated by multiplying the actual number of course hours by two (2) and dividing that number by the number of panel members involved. (3-20-14)

**d. Carryover Credit.** No credit for attending approved courses in continuing veterinary education shall be applicable to any reporting period other than that during which the credit is actually earned. (7-1-97)

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### LOWER BOISE RIVER TOTAL MAXIMUM DAILY LOAD (TMDL): 2015 SEDIMENT AND BACTERIA ADDENDUM (HUC ID 17050114)

DOCKET NO. 58-0000-1501

#### NOTICE OF FINAL DECISION

**AUTHORITY:** In compliance with Section 39-3611, Idaho Code, notice is hereby given that this agency has issued a final decision on the Lower Boise River Total Maximum Daily Load (TMDL): 2015 Sediment and Bacteria Addendum.

**DESCRIPTIVE SUMMARY:** The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Lower Boise River TMDL: 2015 Sediment and Bacteria Addendum. The final decision may be appealed to the Board of Environmental Quality by initiating a contested case in accordance with Sections 39-107(5), 67-5240 et seq., Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." The petition initiating a contested case must be filed with the undersigned hearing coordinator within thirty-five (35) days of the publication date of this notice in the Idaho Administrative Bulletin.

The area covered by the Lower Boise River TMDL: 2015 Sediment and Bacteria Addendum (Hydrologic Unit Code 17050114) establishes eleven (11) new E. coli and twelve (12) new sediment TMDLs on water quality impaired stream reaches (assessment units). DEQ has submitted this TMDL to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

**AVAILABILITY OF THE TMDL:** Electronic copy of the TMDL can be obtained at <http://www.deq.idaho.gov/water-quality/surface-water/tmdls/table-of-sbas-tmdls/boise-river-lower-subbasin/> or by contacting Ms. Marti Bridges, TMDL Program Manager, 208-373-0382, [marti.bridges@deq.idaho.gov](mailto:marti.bridges@deq.idaho.gov).

Dated this 5th Day of August, 2015.

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. 58-0101-1501

### 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 federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of Idaho'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:

**Wednesday, September 9, 2015, 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:** The purpose of this rulemaking is to ensure that the state rules are consistent with federal regulations and to update federal regulations incorporated by reference to include those revised as of July 1, 2015.

This rulemaking reconciles Idaho's state rules with federal regulations by making three minor revisions:

1. The greenhouse gas definition of major source at Section 008 is now obsolete after the federal definition was vacated by the U.S. Supreme Court. This definition is being removed.
2. The federal regulations incorporated by reference are updated by capturing revisions as of July 1, 2015 (Section 107) and by removing two federal provisions that are no longer required (Sections 107.03.q. and 564).
3. The permit to construct section (Section 200) is clarified to define a major source to include both the prevention of significant deterioration (PSD) and nonattainment new source review definitions. The current rule implies that only the PSD definition applies. Idaho is required by federal law to implement both as appropriate.

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 the fall of 2015 for adoption of a pending rule. The rule is expected to be final and effective upon adjournment of the 2016 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 federal regulations that are necessary for EPA approval of Idaho's Title V Operating Permit Program and state primacy of Clean Air Act programs. 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, 2015.

DATED this 5th Day of August, 2015.

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)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0101-1501**  
**(Only those Sections being amended are shown.)**

**008. DEFINITIONS FOR THE PURPOSES OF SECTIONS 300 THROUGH 386.**

- 01. Affected States.** All States: (5-1-94)
- a.** Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (5-1-94)
- b.** That are within fifty (50) miles of the Tier I source. (5-1-94)
- 02. Allowance.** An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one (1) ton of sulfur dioxide. (5-1-94)
- 03. Applicable Requirement.** All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the

time of permit issuance but which have future-effective compliance dates): (5-1-94)

**a.** Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. (5-1-94)

**b.** Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 223 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. (4-5-00)

**c.** Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; (5-1-94)

**d.** Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (5-1-94)

**e.** Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (5-1-94)

**f.** Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661c(b) or Sections 120 through 128 of these rules; (3-23-98)

**g.** Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (5-1-94)

**h.** Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and (5-1-94)

**i.** Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. (5-1-94)

**j.** Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 324. (5-1-94)

**04. Designated Representative.** A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. (5-1-94)

**05. Draft Permit.** The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. (5-1-94)

**06. Emergency.** For the purposes of Section 332, an emergency is any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. (4-5-00)

**07. Final Permit.** The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. (5-1-94)

**08. General Permit.** A Tier I permit issued pursuant to Section 335. (3-23-98)

**09. Insignificant Activity.** Those activities that qualify as insignificant in accordance with Section 317. (3-23-98)

**10. Major Facility.** A facility (as defined in Section 006) is major if the facility meets any of the following criteria: (3-23-98)

**a.** For hazardous air pollutants: (3-23-98)

i. The facility emits or has the potential to emit ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

ii. The facility emits or has the potential to emit twenty-five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

**b.** For non-attainment areas: (3-23-98)

i. The facility is located in a “serious” particulate matter (PM-10) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM-10. (5-1-94)

ii. The facility is located in a “serious” carbon monoxide nonattainment area in which stationary sources are significant contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide. (5-1-94)

iii. The facility is located in an ozone transport region established pursuant to 42 U.S.C. Section 7511c and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds. (5-1-94)

iv. The facility is located in an ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided that oxides of nitrogen shall not be included if the facility has been identified in accordance with 42 U.S.C. Section 7411a(f)(1) or (2) if the area is “marginal” or “moderate,” one hundred (100) tpy or more, if the area is “serious,” fifty (50) tpy or more, if the area is “severe,” twenty-five (25) tpy or more, and if the area is “extreme,” ten (10) tpy or more. (3-23-98)

**c.** The facility emits or has the potential to emit one hundred (100) tons per year or more of any regulated air pollutant. The fugitive emissions shall not be considered in determining whether the facility is major unless the facility belongs to one (1) of the following categories: (4-11-06)

i. Designated facilities. (3-23-98)

ii. All other source categories regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, but only with respect to those air pollutants that have been regulated for that category and only if determined by rule by the Administrator of EPA pursuant to Section 302(j) of the Clean Air Act. (4-5-00)

~~**d.** For greenhouse gases: As of July 1, 2011, any facility that emits or has the potential to emit one hundred thousand (100,000) tpy or more of any of the aggregate group of six (6) greenhouse gases (carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride on a carbon dioxide equivalent basis) and one hundred (100) tpy or more of carbon dioxide on a mass basis, pursuant to 40 CFR 70.2, incorporated by reference into these rules at Section 107. (4-4-13)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**107. INCORPORATIONS BY REFERENCE.**

**01. General.** Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term “documents” includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-1-94)

**02. Availability of Referenced Material.** Copies of the documents incorporated by reference into these rules are available at the following locations: (5-1-94)

**a.** All federal publications: U.S. Government Printing Office at <http://www.gpoaccess.gov/ecfr/index.html> <http://www.ecfr.gov/cgi-bin/ECFR>; and; (3-20-14)( )

**b.** Statutes of the state of Idaho: <http://legislature.idaho.gov/idstat/TOC/IDStatutesTOC.htm>; and (3-20-14)

**c.** All documents herein incorporated by reference: (7-1-97)

**i.** Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373-0502. (7-1-97)

**ii.** State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. (7-1-97)

**03. Documents Incorporated by Reference.** The following documents are incorporated by reference into these rules: (5-1-94)

**a.** Requirements for Preparation, Adoption, and Submittal of Implementation Plans, **40 CFR Part 51** revised as of July 1, 201~~4~~<sup>5</sup>. The following portions of 40 CFR Part 51 are expressly excluded from any incorporation by reference into these rules: (4-11-15)( )

**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~~4~~<sup>5</sup>. (4-11-15)( )

**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~~4~~<sup>5</sup>. (4-11-15)( )

**d.** Ambient Air Monitoring Reference and Equivalent Methods, **40 CFR Part 53**, revised as of July 1, 201~~4~~<sup>5</sup>. (4-11-15)( )

**e.** Ambient Air Quality Surveillance, **40 CFR Part 58**, revised as of July 1, 201~~4~~<sup>5</sup>. (4-11-15)( )

**f.** Standards of Performance for New Stationary Sources, **40 CFR Part 60**, revised as of July 1, 201~~4~~<sup>5</sup>. (4-11-15)( )

**g.** National Emission Standards for Hazardous Air Pollutants, **40 CFR Part 61**, revised as of July 1, 201~~4~~<sup>5</sup>. (4-11-15)( )

**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, 201~~4~~<sup>5</sup>. (4-11-15)( )

- i. National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of July 1, 2014~~5~~. (4-11-15)(    )
- j. Compliance Assurance Monitoring, 40 CFR Part 64, revised as of July 1, 2014~~5~~. (4-11-15)(    )
- k. State Operating Permit Programs, 40 CFR Part 70, revised as of July 1, 2014~~5~~. (4-11-15)(    )
- l. Permits, 40 CFR Part 72, revised as of July 1, 2014~~5~~. (4-11-15)(    )
- m. Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 2014~~5~~. (4-11-15)(    )
- n. Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 2014~~5~~. (4-11-15)(    )
- o. Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). (3-19-99)
- p. Medical Waste Combustors, Section 39-128, Idaho Code (1992). (3-20-14)

~~q. 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, 2013, except that Sections 93.102(e), 93.104(d), 93.104(e)(2), 93.105, 93.109(e) (f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1), and 93.124(b) are expressly omitted from the incorporation by reference. (3-20-14)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**200. PROCEDURES AND REQUIREMENTS FOR PERMITS TO CONSTRUCT.**

The purposes of Sections 200 through 228 is to establish uniform procedures and requirements for the issuance of "Permits to Construct." As used throughout Sections 200 through 228 and 578 through 581, major facility shall be defined as major stationary source in 40 CFR 52.21(b) and 40 CFR 51.165, incorporated by reference into these rules at Section 107, and major modification shall be defined as in 40 CFR 52.21(b) and 40 CFR 51.165, incorporated by reference into these rules at Section 107. These CFR sections have been codified in the electronic CFR which is available at [www.ecfr.gov](http://www.ecfr.gov). (4-2-08)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**563. TRANSPORTATION CONFORMITY.**

The purpose of Sections 563 through 574 is to adopt and implement Section 176(c) of the Clean Air Act (CAA), as amended [42 U.S.C. 7401 et seq.], and the related requirements of 23 U.S.C. 109(j), with respect to the conformity of transportation plans, programs, and projects developed, funded, or approved by the United States Department of Transportation (USDOT), and by metropolitan planning organizations (MPOs) or other recipients of funds under Title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. Chapter 53). These sections set forth policy, criteria, and procedures for demonstrating and assuring conformity of such activities to an applicable implementation plan developed pursuant to Section 110 and Part D of the CAA. The publications referred to or incorporated by reference in Sections 563 through 574 are available from the IDEQ. (3-30-01)(    )

**564. INCORPORATION BY REFERENCE. (RESERVED)**

~~With the exception of Sections 93.102(e), 93.104(d), 93.104(e)(2), 93.105, 93.109(e) (f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1), and 93.124(b), 40 CFR Part 93, Subpart A, Sections 93.100-93.129, are incorporated by reference into these rules at Section 107 of these rules. (3-30-01)~~

# IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.02 - WATER QUALITY STANDARDS

### DOCKET NO. 58-0102-1501

#### 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. This action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

**PUBLIC HEARING SCHEDULE:** No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before August 21, 2015. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** The purpose of this rulemaking is to add language to the Idaho Water Quality Standards that is consistent with the federal regulations for designating and revising uses assigned to waterbodies, providing basis for guidance on the use designation/revision process.

A Use Attainability Analysis (UAA) is required in order to revise or remove a designated beneficial use that is not an existing use on a water body. According to federal Clean Water Act regulation (40 CFR 131.10), a designated use may be changed or removed if it is demonstrated that attaining the designated use is not feasible. The federal regulations describe six reasons for justifying infeasibility of use attainment, as well as limitations on removal of a currently designated use.

Not all waterbody beneficial use designations necessarily reflect the most appropriate use and may benefit from a UAA. Idaho has had mixed success in developing UAAs and changing use designations. Currently DEQ does not have language in its Water Quality Standards pertaining to the UAA process, and consequently, DEQ has no basis for a policy or guidance document on when a UAA is appropriate or how to perform a UAA. UAA involves considerable data collection, analysis, and resources to meet the high demonstrable threshold required to revise use designations. Without guidance on when a UAA is required and the requirements of a successful UAA, a UAA is difficult and risky.

In 2014 the state of Idaho Office of Performance Evaluations (OPE) submitted Evaluation Report 14-03 to the Joint Legislative Oversight Committee. The Report recommended that DEQ complete its UAA guidance document. In the DEQ response to Report 14-03, DEQ committed to completing the UAA guidance after a basis for UAA guidance was established in the Water Quality Standards. This rulemaking is intended to develop sufficient language regarding the UAA process such that the OPE recommended guidance may be completed.

Idahoans that recreate in, drink from, or fish Idaho's surface waters, and any who discharge pollutants to those same waters, 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 the fall of 2015 for adoption of a pending rule. The rule is expected to be final and effective upon adjournment of the 2016 legislative session if adopted by the Board and approved by the Legislature.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

**NEGOTIATED RULEMAKING:** The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code § 67-5220 and IDAPA 58.01.23.810-815. The Notice of Negotiated Rulemaking was published in the March 2015 Idaho Administrative Bulletin, [Vol. 15-3, pages 16-17](#), and a preliminary draft rule was made available for public review. Meetings were held on April 7 and May 19, 2015. Several members of the public participated in this negotiated rulemaking process by attending the meetings and by submitting written comments. A record of the negotiated rule drafts, written comments, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary is available at

[www.deq.idaho.gov/58-0102-1501](http://www.deq.idaho.gov/58-0102-1501).

All comments received during the negotiated rulemaking process were considered by DEQ when making decisions that resulted in drafting the proposed rule. At the conclusion of the negotiated rulemaking process, DEQ formatted the final rule draft for publication as a proposed rule. DEQ is now seeking public comment on the proposed rule.

**IDAHO CODE SECTION 39-107D STATEMENT:** The standards included in this proposed rule are not broader in scope, nor more stringent, than federal regulations and do not regulate an activity not regulated by the federal government.

**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 when the pending rule will become effective: Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this rulemaking, contact Josh Schultz at [josh.schultz@deq.idaho.gov](mailto:josh.schultz@deq.idaho.gov), (208)373-0264.

Anyone may submit written comments by mail, fax or email at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 4, 2015.

DATED this 5th Day of August, 2015.

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)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0102-1501**  
**(Only those Sections being amended are shown.)**

**010. DEFINITIONS.**

For the purpose of the rules contained in IDAPA 58.01.02, "Water Quality Standards," the following definitions apply: (4-11-06)

**01. Activity.** For purposes of antidegradation review, an activity that causes a discharge to a water subject to the jurisdiction of the Clean Water Act. (3-18-11)

**02. Acute.** A stimulus severe enough to induce a rapid response. In aquatic toxicity tests, acute refers to a single or short-term (i.e., ninety-six (96) hours or less) exposure to a concentration of a toxic substance or effluent which results in death to fifty percent (50%) of the test organisms. When referring to human health, an acute effect is not always measured in terms of lethality. (3-30-07)

**03. Acute Criteria.** Unless otherwise specified in these rules, the maximum instantaneous or one (1) hour average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from acute toxicity due to exposure to the toxic substance or effluent. Acute criteria are expected to adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. This is also

known as the Criterion Maximum Concentration (CMC). There are no specific acute criteria for human health; however, the human health criteria are based on chronic health effects and are expected to adequately protect against acute effects. (3-30-07)

**04. Aquatic Species.** Any plant or animal that lives at least part of its life in the water column or benthic portion of waters of the state. (8-24-94)

**05. Assigned Criteria.** Criteria associated with beneficial uses from Section 100 of these rules. (3-18-11)

**06. Background.** The biological, chemical or physical condition of waters measured at a point immediately upstream (up-gradient) of the influence of an individual point or nonpoint source discharge. If several discharges to the water exist or if an adequate upstream point of measurement is absent, the Department will determine where background conditions should be measured. (8-24-94)

**07. Basin Advisory Group.** No less than one (1) advisory group named by the Director, in consultation with the designated agencies, for each of the state's six (6) major river basins which shall generally advise the Director on water quality objectives for each basin, work in a cooperative manner with the Director to achieve these objectives, and provide general coordination of the water quality programs of all public agencies pertinent to each basin. Each basin advisory group named by the Director shall reflect a balanced representation of the interests in the basin and shall, where appropriate, include representatives from each of the following: agriculture, mining, nonmunicipal point source discharge permittees, forest products, local government, livestock, Indian tribes (for areas within reservation boundaries), water-based recreation, and environmental interests. (3-20-97)

**08. Beneficial Use.** Any of the various uses which may be made of the water of Idaho, including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. The beneficial use is dependent upon actual use, the ability of the water to support a non-existing use either now or in the future, and its likelihood of being used in a given manner. The use of water for the purpose of wastewater dilution or as a receiving water for a waste treatment facility effluent is not a beneficial use. (8-24-94)

**09. Best Management Practice.** A practice or combination of practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be the cost-effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals. (3-20-97)

**10. Bioaccumulation.** The process by which a compound is taken up by, and accumulated in the tissues of an aquatic organism from the environment, both from water and through food. (8-24-94)

**11. Bioaccumulative Pollutants.** A compound with a bioaccumulation factor of greater than one thousand (1,000) or a bioconcentration factor of greater than one thousand (1,000). (4-11-15)

**12. Biological Monitoring or Biomonitoring.** The use of a biological entity as a detector and its response as a measure to determine environmental conditions. Toxicity tests and biological surveys, including habitat monitoring, are common biomonitoring methods. (8-24-94)

**13. Board.** The Idaho Board of Environmental Quality. (7-1-93)

**14. Chronic.** A stimulus that persists or continues for a long period of time relative to the life span of an organism. In aquatic toxicity tests, chronic refers to continuous exposure to a concentration of a toxic substance or effluent which results in mortality, injury, reduced growth, impaired reproduction, or other adverse effect to aquatic organisms. The test duration is long enough that sub-lethal effects can be reliably measured. When referring to human health, a chronic effect is usually measured in terms of estimated changes in rates (# of cases/ 1000 persons) of illness over a lifetime of exposure. (3-30-07)

**15. Chronic Criteria.** Unless otherwise specified in these rules, the four (4) day average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from

chronic toxicity due to exposure to the toxic substance or effluent. Chronic criteria are expected to adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. This is also known as the Criterion Continuous Concentration (CCC). Human health chronic criteria are based on lifetime exposure. (3-30-07)

**16. Compliance Schedule or Schedule Of Compliance.** A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard. (8-24-94)

**17. Cost-Effective and Reasonable Best Management Practices (BMPs) for Nonpoint Sources.** All approved BMPs specified in Subsections 350.03 and 055.07 of these rules. BMPs for activities not specified are, in accordance with Section 350, determined on a case-by-case basis. (3-18-11)

**18. Daily Maximum (Minimum).** The highest (lowest) value measured during one (1) calendar day or a twenty-four (24) hour period, as appropriate. For ambient monitoring of dissolved oxygen, pH, and temperature, multiple measurements should be obtained at intervals short enough that the difference between consecutive measurements around the daily maximum (minimum) is less than zero point two (0.2) ppm for dissolved oxygen, zero point one (0.1) SU for pH, or zero point five (0.5) degree C for temperature. (3-30-07)

**19. Daily Mean.** The average of at least two (2) appropriately spaced measurements, acceptable to the Department, calculated over a period of one (1) day: (3-20-97)

**a.** Confidence bounds around the point estimate of the mean may be required to determine the sample size necessary to calculate a daily mean; (8-24-94)

**b.** If any measurement is greater or less than five-tenths (0.5) times the average, additional measurements over the one-day period may be needed to obtain a more representative average; (3-20-97)

**c.** In calculating the daily mean for dissolved oxygen, values used in the calculation shall not exceed the dissolved oxygen saturation value. If a measured value exceeds the dissolved oxygen saturation value, then the dissolved oxygen saturation value will be used in calculating the daily mean. (8-24-94)

**d.** For ambient monitoring of temperature, the daily mean should be calculated from equally spaced measurements, at intervals such that the difference between any two (2) consecutive measurements does not exceed one point zero (1.0) degree C. (3-30-07)

**20. Degradation or Lower Water Quality.** “Degradation” or “lower water quality” means, for purposes of antidegradation review, a change in a pollutant that is adverse to designated or existing uses, as calculated for a new point source, and based upon monitoring or calculated information for an existing point source increasing its discharge. Such degradation shall be calculated or measured after appropriate mixing of the discharge and receiving water body. (3-29-12)

**21. Deleterious Material.** Any nontoxic substance which may cause the tainting of edible species of fish, taste and odors in drinking water supplies, or the reduction of the usability of water without causing physical injury to water users or aquatic and terrestrial organisms. (8-24-94)

**22. Department.** The Idaho Department of Environmental Quality. (7-1-93)

**23. Design Flow.** The critical flow used for steady-state wasteload allocation modeling. (8-24-94)

**24. Designated Agency.** The department of lands for timber harvest activities, oil and gas exploration and development, and mining activities; the soil conservation commission for grazing and agricultural activities; the transportation department for public road construction; the department of agriculture for aquaculture; and the Department’s division of environmental quality for all other activities. (3-20-97)

**25. Designated Beneficial Use or Designated Use.** Those beneficial uses assigned to identified waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, “Water Quality Standards and Wastewater Treatment Requirements,” Sections 110 through 160, whether or not the uses are being attained. (4-5-00)

26. **Desirable Species.** Species indigenous to the area or those introduced species identified as desirable by the Idaho Department of Fish and Game. (3-15-02)
27. **Director.** The Director of the Idaho Department of Environmental Quality or his authorized agent. (7-1-93)
28. **Discharge.** When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. For purposes of antidegradation review, means “discharge” as used in Section 401 of the Clean Water Act. (3-18-11)
29. **Dissolved Oxygen (DO).** The measure of the amount of oxygen dissolved in the water, usually expressed in mg/l. (7-1-93)
30. **Dissolved Product.** Petroleum product constituents found in solution with water. (8-24-94)
31. **Dynamic Model.** A computer simulation model that uses real or derived time series data to predict a time series of observed or derived receiving water concentrations. Dynamic modeling methods include continuous simulation, Monte Carlo simulations, lognormal probability modeling, or other similar statistical or deterministic techniques. (8-24-94)
32. **E. coli (Escherichia coli).** A common fecal and intestinal organism of the coliform group of bacteria found in warm-blooded animals. (4-5-00)
33. **Effluent.** Any wastewater discharged from a treatment facility. (7-1-93)
34. **Effluent Biomonitoring.** The measurement of the biological effects of effluents (e.g., toxicity, biostimulation, bioaccumulation, etc.). (8-24-94)
35. **EPA.** The United States Environmental Protection Agency. (7-1-93)
36. **Ephemeral Waters.** A stream, reach, or water body that flows naturally only in direct response to precipitation in the immediate watershed and whose channel is at all times above the water table. (4-11-06)
37. **Existing Activity or Discharge.** An activity or discharge that has been previously authorized or did not previously require authorization. (3-18-11)
38. **Existing Beneficial Use Or Existing Use.** Those beneficial uses actually attained in waters on or after November 28, 1975, whether or not they are designated for those waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, “Water Quality Standards.” (4-11-06)
39. **Facility.** As used in Section 850 only, any building, structure, installation, equipment, pipe or pipeline, well pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock or aircraft, area, place or property from which an unauthorized release of hazardous materials has occurred. (8-24-94)
40. **Four Day Average.** The average of all measurements within a period of ninety-six (96) consecutive hours. While a minimum of one (1) measurement per each twenty-four (24) hours is preferred, for toxic chemicals in Section 210, any number of data points is acceptable. (3-30-07)
41. **Free Product.** A petroleum product that is present as a nonaqueous phase liquid. Free product includes the presence of petroleum greater than one-tenth (0.1) inch as measured on the water surface for surface water or the water table for ground water. (7-1-93)
42. **Full Protection, Full Support, or Full Maintenance of Designated Beneficial Uses of Water.** Compliance with those levels of water quality criteria listed in Sections 200, 210, 250, 251, 252, 253, and 275 (if applicable) or where no major biological group such as fish, macroinvertebrates, or algae has been modified by human activities significantly beyond the natural range of the reference streams or conditions approved by the

Director in consultation with the appropriate basin advisory group. (3-15-02)

**43. General Permit.** An NPDES permit issued by the U.S. Environmental Protection Agency authorizing a category of discharges under the federal Clean Water Act or a nationwide or regional permit issued by the U.S. Army Corps of Engineers under the federal Clean Water Act. (3-29-12)

**44. Geometric Mean.** The geometric mean of “n” quantities is the “nth” root of the product of the quantities. (7-1-93)

**45. Ground Water.** Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (3-30-07)

**46. Harmonic Mean Flow.** The number of daily flow measurements divided by the sum of the reciprocals of the flows (i.e., the reciprocal of the mean of reciprocals). (8-24-94)

**47. Hazardous Material.** A material or combination of materials which, when discharged in any quantity into state waters, presents a substantial present or potential hazard to human health, the public health, or the environment. Unless otherwise specified, published guides such as Quality Criteria for Water (1976) by EPA, Water Quality Criteria (Second Edition, 1963) by the state of California Water Quality Control Board, their subsequent revisions, and more recent research papers, regulations and guidelines will be used in identifying individual and specific materials and in evaluating the tolerances of the identified materials for the beneficial uses indicated. (7-1-93)

**48. Highest Statutory and Regulatory Requirements for Point Sources.** All applicable effluent limits required by the Clean Water Act and other permit conditions. It also includes any compliance schedules or consent orders requiring measures to achieve applicable effluent limits and other permit conditions required by the Clean Water Act. (3-18-11)

**49. Hydrologic Unit Code (HUC).** A unique eight (8) digit number identifying a subbasin. A subbasin is a United States Geological Survey cataloging unit comprised of water body units. (4-5-00)

**50. Hydrologically-Based Design Flow.** A statistically derived receiving water design flow based on the selection and identification of an extreme value (e.g., 1Q10, 7Q10). The underlying assumption is that the design flow will occur X number of times in Y years, and limits the number of years in which one (1) or more excursions below the design flow can occur. (8-24-94)

**51. Hypolimnion.** The bottom layer in a thermally-stratified body of water. It is fairly uniform in temperature and lays beneath a zone of water which exhibits a rapid temperature drop with depth such that mixing with overlying water is inhibited. (3-30-07)

**52. Integrated Report.** Refers to the consolidated listing and reporting of the state’s water quality status pursuant to Sections 303(d), 305(b), and 314 of the Clean Water Act. (3-18-11)

**53. Inter-Departmental Coordination.** Consultation with those agencies responsible for enforcing or administering the practices listed as approved best management practices in Subsection 350.03. (7-1-93)

**54. Intermittent Waters.** A stream, reach, or water body which naturally has a period of zero (0) flow for at least one (1) week during most years. Where flow records are available, a stream with a 7Q2 hydrologically-based unregulated flow of less than one-tenth (0.1) cubic feet per second (cfs) is considered intermittent. Streams with natural perennial pools containing significant aquatic life uses are not intermittent. (4-11-06)

**55. Load Allocation (LA).** The portion of a receiving water's loading capacity that is attributed either to one (1) of its existing or future nonpoint sources of pollution or to natural background sources. (8-24-94)

**56. Loading Capacity.** The greatest amount of pollutant loading that a water can receive without violating water quality standards. (8-24-94)

**57. Lowest Observed Effect Concentration (LOEC).** The lowest concentration of a toxic substance or an effluent that results in observable adverse effects in the aquatic test population. (3-30-07)

**58. Man-Made Waterways.** Canals, flumes, ditches, wasteways, drains, laterals, and/or associated features, constructed for the purpose of water conveyance. This may include channels modified for such purposes prior to November 28, 1975. These waterways may have uniform and rectangular cross-sections, straight channels, follow rather than cross topographic contours, be lined to reduce water loss, and be operated or maintained to promote water conveyance. (3-30-07)

**59. Maximum Weekly Maximum Temperature (MWMT).** The weekly maximum temperature (WMT) is the mean of daily maximum temperatures measured over a consecutive seven (7) day period ending on the day of calculation. When used seasonally, e.g., spawning periods, the first applicable WMT occurs on the seventh day into the time period. The MWMT is the single highest WMT that occurs during a given year or other period of interest, e.g., a spawning period. (3-30-07)

**60. Milligrams Per Liter (mg/l).** Milligrams of solute per liter of solution, equivalent to parts per million, assuming unit density. (7-1-93)

**61. Mixing Zone.** A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place where effluents are treated. (7-1-93)

**62. National Pollutant Discharge Elimination System (NPDES).** Point source permitting program established pursuant to Section 402 of the federal Clean Water Act. (8-24-94)

**63. Natural Background Conditions.** The physical, chemical, biological, or radiological conditions existing in a water body without human sources of pollution within the watershed. Natural disturbances including, but not limited to, wildfire, geologic disturbance, diseased vegetation, or flow extremes that affect the physical, chemical, and biological integrity of the water are part of natural background conditions. Natural background conditions should be described and evaluated taking into account this inherent variability with time and place. (3-30-07)

**64. Nephelometric Turbidity Units (NTU).** A measure of turbidity based on a comparison of the intensity of the light scattered by the sample under defined conditions with the intensity of the light scattered by a standard reference suspension under the same conditions. (8-24-94)

**65. New Activity or Discharge.** An activity or discharge that has not been previously authorized. Existing activities or discharges not currently permitted or licensed will be presumed to be new unless the Director determines to the contrary based on review of available evidence. An activity or discharge that has previously taken place without need for a license or permit is not a new activity or discharge when first licensed or permitted. (3-18-11)

**66. Nonpoint Source Activities.** Activities on a geographical area on which pollutants are deposited or dissolved or suspended in water applied to or incident on that area, the resultant mixture being discharged into the waters of the state. Nonpoint source activities on ORWs do not include issuance of water rights permits or licenses, allocation of water rights, operation of diversions, or impoundments. Nonpoint sources activities include, but are not limited to: (3-20-97)

- a. Irrigated and nonirrigated lands used for: (7-1-93)
  - i. Grazing; (7-1-93)
  - ii. Crop production; (7-1-93)
  - iii. Silviculture; (7-1-93)
- b. Log storage or rafting; (7-1-93)

- c. Construction sites; (7-1-93)
- d. Recreation sites; (3-20-97)
- e. Septic tank disposal fields. (8-24-94)
- f. Mining; (3-20-97)
- g. Runoff from storms or other weather related events; and (3-20-97)
- h. Other activities not subject to regulation under the federal national pollutant discharge elimination system. (3-20-97)
- 67. Nuisance.** Anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the state. (7-1-93)
- 68. Nutrients.** The major substances necessary for the growth and reproduction of aquatic plant life, consisting of nitrogen, phosphorus, and carbon compounds. (7-1-93)
- 69. One Day Minimum.** The lowest daily instantaneous value measured. (3-20-97)
- 70. One Hour Average.** The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of one (1) hour. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the one-hour period may be needed to obtain a more representative mean. (3-20-97)
- 71. Operator.** For purposes of Sections 851 and 852, any person presently or who was at any time during a release in control of, or having responsibility for, the daily operation of the petroleum storage tank (PST) system. (4-2-03)
- 72. Outstanding Resource Water (ORW).** A high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been designated by the legislature and subsequently listed in this chapter. ORW constitutes an outstanding national or state resource that requires protection from point and nonpoint source activities that may lower water quality. (3-20-97)
- 73. Owner.** For purposes of Sections 851 and 852, any person who owns or owned a petroleum storage tank (PST) system any time during a release and the current owner of the property where the PST system is or was located. (4-2-03)
- 74. Permit or License.** A permit or license for an activity that is subject to certification by the state under Section 401 of the Clean Water Act, including, for example, NPDES permits, dredge and fill permits, and FERC licenses. (3-18-11)
- 75. Person.** An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, which is recognized by law as the subject of rights and duties. (3-20-97)
- 76. Petroleum Products.** Products derived from petroleum through various refining processes. (7-1-93)
- 77. Petroleum Storage Tank (PST) System.** Any one (1) or combination of storage tanks or other containers, including pipes connected thereto, dispensing equipment, and other connected ancillary equipment, and stationary or mobile equipment, that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. (7-1-93)

**78. Point Source.** Any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. (7-1-93)

**79. Pollutant.** Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when discharged to water in excessive quantities, cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities. (3-20-97)

**80. Project Plans.** Documents which describe actions to be taken under a proposed activity. These documents include environmental impact statements, environmental assessments, and other land use or resource management plans. (7-1-93)

**81. Public Swimming Beaches.** Areas indicated by features such as signs, swimming docks, diving boards, slides, or the like, boater exclusion zones, map legends, collection of a fee for beach use, or any other unambiguous invitation to public swimming. Privately owned swimming docks or the like which are not open to the general public are not included in this definition. (4-11-06)

**82. Receiving Waters.** Those waters which receive pollutants from point or nonpoint sources. (7-1-93)

**83. Reference Stream or Condition.** A water body which represents the minimum conditions necessary to fully support the applicable designated beneficial uses as further specified in these rules, or natural conditions with few impacts from human activities and which are representative of the highest level of support attainable in the basin. In highly mineralized areas or in the absence of such reference streams or water bodies, the Director, in consultation with the basin advisory group and the technical advisors to it, may define appropriate hypothetical reference conditions or may use monitoring data specific to the site in question to determine conditions in which the beneficial uses are fully supported. (3-20-97)

**84. Release.** Any unauthorized spilling, leaking, emitting, discharging, escaping, leaching, or disposing into soil, ground water, or surface water. (8-24-94)

**85. Resident Species.** Those species that commonly occur in a site including those that occur only seasonally or intermittently. This includes the species, genera, families, orders, classes, and phyla that: (8-24-94)

a. Are usually present at the site; (8-24-94)

b. Are present only seasonally due to migration; (8-24-94)

c. Are present intermittently because they periodically return or extend their ranges into the site; (8-24-94)

d. Were present at the site in the past but are not currently due to degraded conditions, and are expected to be present at the site when conditions improve; and (8-24-94)

e. Are present in nearby bodies of water but are not currently present at the site due to degraded conditions, and are expected to be present at the site when conditions improve. (8-24-94)

**86. Responsible Persons in Charge.** Any person who: (8-24-94)

a. By any acts or omissions, caused, contributed to or exacerbated an unauthorized release of hazardous materials; (8-24-94)

b. Owns or owned the facility from which the unauthorized release occurred and the current owner of

- the property where the facility is or was located; or (8-24-94)
- c.** Presently or who was at any time during an unauthorized release in control of, or had responsibility for, the daily operation of the facility from which an unauthorized release occurred. (8-24-94)
- 87. Sediment.** Undissolved inorganic matter. (3-30-07)
- 88. Seven Day Mean.** The average of the daily mean values calculated over a period of seven (7) consecutive days. (3-20-97)
- 89. Sewage.** The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (8-24-94)
- 90. Short-Term or Temporary Activity.** An activity which is as short as possible but lasts for no more than one (1) year, is limited in scope and is expected to have only minimal impact on water quality as determined by the Director. Short-term or temporary activities include, but are not limited to, those activities described in Subsection 080.02. (3-30-07)
- 91. Silviculture.** Those activities associated with the regeneration, growing and harvesting of trees and timber including, but not limited to, disposal of logging slash, preparing sites for new stands of trees to be either planted or allowed to regenerate through natural means, road construction and road maintenance, drainage of surface water which inhibits tree growth or logging operations, fertilization, application of herbicides or pesticides, all logging operations, and all forest management techniques employed to enhance the growth of stands of trees or timber. (3-20-97)
- 92. Sludge.** The semi-liquid mass produced by partial dewatering of potable or spent process waters or wastewater. (7-1-93)
- 93. Specialized Best Management Practices.** Those practices designed with consideration of geology, land type, soil type, erosion hazard, climate and cumulative effects in order to fully protect the beneficial uses of water, and to prevent or reduce the pollution generated by nonpoint sources. (3-3-87)
- 94. State.** The state of Idaho. (7-1-93)
- 95. State Water Quality Management Plan.** The state management plan developed and updated by the Department in accordance with Sections 205, 208, and 303 of the Clean Water Act. (3-20-97)
- 96. Suspended Sediment.** The undissolved inorganic fraction of matter suspended in surface water. (3-30-07)
- 97. Suspended Solids.** The undissolved organic and inorganic matter suspended in surface water. (3-30-07)
- 98. Technology-Based Effluent Limitation.** Treatment requirements under Section 301(b) of the Clean Water Act that represent the minimum level of control that must be imposed in a permit issued under Section 402 of the Clean Water Act. (8-24-94)
- 99. Thermal Shock.** A rapid temperature change that causes aquatic life to become disoriented or more susceptible to predation or disease. (4-11-15)
- 100. Total Maximum Daily Load (TMDL).** The sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, and natural background. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. (8-24-94)

**101. Toxicity Test.** A procedure used to determine the toxicity of a chemical or an effluent using living organisms. A toxicity test measures the degree of response of an exposed test organism to a specific chemical or effluent. (8-24-94)

**102. Toxic Substance.** Any substance, material or disease-causing agent, or a combination thereof, which after discharge to waters of the State and upon exposure, ingestion, inhalation or assimilation into any organism (including humans), either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, malignancy, genetic mutation, physiological abnormalities (including malfunctions in reproduction) or physical deformations in affected organisms or their offspring. Toxic substances include, but are not limited to, the one hundred twenty-six (126) priority pollutants identified by EPA pursuant to Section 307(a) of the federal Clean Water Act. (8-24-94)

**103. Treatment.** A process or activity conducted for the purpose of removing pollutants from wastewater. (7-1-93)

**104. Treatment System.** Any physical facility or land area for the purpose of collecting, treating, neutralizing or stabilizing pollutants including treatment by disposal plants, the necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers, equipment and furnishing thereof and their appurtenances. A treatment system may also be known as a treatment facility. (4-11-06)

**105. Twenty-Four Hour Average.** The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of twenty-four (24) consecutive hours. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the twenty-four (24)-hour period may be needed to obtain a more representative mean. (3-20-97)

**106. Unique Ecological Significance.** The attribute of any stream or water body which is inhabited or supports an endangered or threatened species of plant or animal or a species of special concern identified by the Idaho Department of Fish and Game, which provides anadromous fish passage, or which provides spawning or rearing habitat for anadromous or desirable species of lake dwelling fishes. (8-24-94)

**107. Use Attainability Analysis.** A structured scientific assessment of the factors affecting the attainment of the use which may include physical, chemical, biological, and economic factors as described in Subsection 102.02.a. ( )

~~107~~**8. Wasteload Allocation (WLA).** The portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. (8-24-94)

~~108~~**9. Wastewater.** Unless otherwise specified, sewage, industrial waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present. (7-1-93)

~~109~~**10. Water Body Unit.** Includes all named and unnamed tributaries within a drainage and is considered a single unit unless designated otherwise. (4-5-00)

~~110~~**1. Water Pollution.** Any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the state, or the discharge of any pollutant into the waters of the state, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to fish and wildlife, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses. (8-24-94)

~~111~~**2. Water Quality-Based Effluent Limitation.** An effluent limitation that refers to specific levels of water quality that are expected to render a body of water suitable for its designated or existing beneficial uses. (8-24-94)

~~112~~**3. Water Quality Limited Water Body.** After monitoring, evaluation of required pollution controls, and consultation with the appropriate basin and watershed advisory groups, a water body identified by the

Department, which does not meet applicable water quality standards, and/or is not expected to meet applicable water quality standards after the application of required pollution controls. A water body identified as water quality limited shall require the development of a TMDL or other equivalent process in accordance with Section 303 of the Clean Water Act and Sections 39-3601 et seq., Idaho Code. (3-20-97)

**11~~3~~4.** **Waters and Waters Of The State.** All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (7-1-93)

**11~~4~~5.** **Watershed.** The land area from which water flows into a stream or other body of water which drains the area. (3-20-97)

**11~~5~~6.** **Watershed Advisory Group.** An advisory group appointed by the Director, with the advice of the appropriate Basin Advisory Group, which will recommend to the Department those specific actions needed to control point and nonpoint sources of pollution affecting water quality limited water bodies within the watershed. Members of each watershed advisory group shall be representative of the industries and interests affected by the management of that watershed, along with representatives of local government and the land managing or regulatory agencies with an interest in the management of that watershed and the quality of the water bodies within it. (3-20-97)

**11~~6~~7.** **Whole-Effluent Toxicity.** The aggregate toxic effect of an effluent measured directly with a toxicity test. (8-24-94)

**11~~7~~8.** **Zone of Initial Dilution (ZID).** An area within a Department authorized mixing zone where acute criteria may be exceeded. This area shall be no larger than necessary and shall be sized to prevent lethality to swimming or drifting organisms by ensuring that organisms are not exposed to concentrations exceeding acute criteria for more than one (1) hour more than once in three (3) years. The actual size of the ZID will be determined by the Department for a discharge on a case-by-case basis, taking into consideration mixing zone modeling and associated size recommendations and any other pertinent chemical, physical, and biological data available. (4-11-15)

**(BREAK IN CONTINUITY OF SECTIONS)**

**102. DESIGNATION AND REVISION OF BENEFICIAL USES.**  
When designating or revising beneficial uses for a water body, the Department shall consult with the basin advisory group and the watershed advisory group with the responsibilities for the water body described in Chapter 36, Title 39, Idaho Code. After consultation, the Director shall identify the designated beneficial uses of each water body in these rules pursuant to the rulemaking and public participation provisions of Chapter 52, Title 67, Idaho Code. ( )

**01. Designation of Beneficial Uses.** Beneficial uses shall be designated in accordance with Section 39-3604, Idaho Code, taking into consideration the uses set forth in Section 100, and such physical, geological, chemical, and biological measures as may affect the surface water. Beneficial uses are designated according to water body unit unless designated otherwise. Use designations are made for each water body or segment whether or not they are being attained or are fully supported at the time of designation. ( )

**a. In designating beneficial uses, which a water body can reasonably be expected to attain, the Department shall consider: ( )**

**i. Existing uses of the water body: ( )**

**ii. The physical, geological, hydrological, atmospheric, chemical and biological measures that affect the water body: ( )**

**iii. The beneficial use attainability measures identified in Section 39-3607, Idaho Code: ( )**

**iv. The economic impact of the designation and the economic costs required to fully support the beneficial uses: ( )**

v. The attainment and maintenance of the water quality standards of downstream waters, including the waters of downstream states; ( )

vi. Adopting subcategories of a beneficial use and set the appropriate criteria to reflect varying needs of such subcategories of beneficial uses, for instance, to differentiate between cold water and warm water fisheries; ( )

vii. At a minimum, that beneficial uses are deemed attainable if they can be achieved by the imposition of effluent limits required under sections 301(b) and 306 of the federal Clean Water Act and cost-effective and reasonable best management practices for nonpoint source control; and ( )

viii. Designating seasonal beneficial uses as an alternative to reclassifying a water body or segment thereof to uses requiring less stringent water quality criteria. If seasonal beneficial uses are adopted, water quality criteria may be adjusted to reflect the timing of the beneficial use, e.g., salmonid spawning. However, seasonal beneficial uses and their criteria shall not preclude the attainment and maintenance of a more protective beneficial use at other times. ( )

b. In no case shall waste transport or waste assimilation be a designated beneficial use for a water body. ( )

**02. Revision of Beneficial Uses.** ( )

a. Designated beneficial uses shall be reviewed and revised when such physical, geological, hydrological, atmospheric, chemical or biological measures indicate the need to do so. Designated beneficial uses may be revised or removed if the designated beneficial use is not an existing use, and it is demonstrated that attaining the designated beneficial use is not feasible due to one of the following factors: ( )

i. Naturally occurring pollutant concentrations prevent the attainment of the use; ( )

ii. Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating state water conservation requirements to enable uses to be met; ( )

iii. Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place; ( )

iv. Dams, diversions or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or to operate such modification in a way that would result in the attainment of the use; ( )

v. Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, preclude attainment of aquatic life protection uses; or ( )

vi. Controls more stringent than those required by sections 301(b) and 306 of the federal Clean Water Act would result in substantial and widespread economic and social impact. ( )

b. Designated beneficial uses may not be removed if: ( )

i. They are existing uses unless a use requiring more stringent criteria is added; or ( )

ii. Such uses can be attained by implementing effluent limits required under sections 301(b) and 306 of the federal Clean Water Act and by implementing cost-effective and reasonable best management practices for nonpoint source control. ( )

c. Where existing water quality standards specify designated uses less than those which are presently

being attained, the Department shall revise its standards to reflect the uses actually being attained. ( )

d. A use attainability analysis is a structured scientific assessment of the factors affecting the attainment of the use which may include physical, chemical, biological, and economic factors as described in Subsection 102.02.a. A use attainability analysis must be conducted whenever: ( )

i. The Department designates uses for a water body that do not include the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water; or ( )

ii. The Department acts to remove a designated use which provides for protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water; to remove a subcategory of such uses; or to designate subcategories of such uses which require less stringent criteria than previously applicable. ( )

e. A use attainability analysis is not required under this rule whenever: ( )

i. The Department designates beneficial uses which include protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water; or ( )

ii. The Department removes a beneficial use that does not include the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water. ( )

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-1501

#### 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 Chapters 44 and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e) and Section 39-4404, Idaho Code, require DEQ to adopt amendments to federal law as proposed under this docket.

**PUBLIC HEARING SCHEDULE:** No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before August 19, 2015. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** Idaho's Rules and Standards for Hazardous Waste are updated annually to maintain consistency with the U.S. Environmental Protection Agency's (EPA's) federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). This proposed rule updates federal regulations incorporated by reference to include those revised as of July 1, 2015. In addition, this rulemaking also denotes areas of the rules that are non-delegable to the states and must be implemented by EPA. In those instances, "EPA" will be defined as the U.S. Environmental Protection Agency.

Groups interested in hazardous waste and handlers of hazardous waste including generators, transporters, and treatment, storage, and disposal facilities may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the fall of 2015 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2016 legislative session if adopted by the Board and approved by the Legislature.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary:

Idaho has historically adopted both required and optional federal regulations so that Idaho's hazardous waste rules are the same as federal requirements. Optional federal regulations usually allow more flexibility to the regulated community; required federal regulations are necessary to maintain program primacy. Adoption by reference allows DEQ to keep its rules up to date with federal regulation changes and minimizes the EPA Region 10 effort needed to keep Idaho's authorization current. Adoption by reference also simplifies compliance for the regulated community. 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 EPA's federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). 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, SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning the proposed rulemaking, contact Matt Alvarado at [matt.alvarado@deq.idaho.gov](mailto:matt.alvarado@deq.idaho.gov) or (208)373-0554.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before September 2, 2015.

Dated this 5th Day of August, 2015.

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)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0105-1501  
(Only those Sections being amended are shown.)**

**002. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.**

Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260 - 268, 270, 273, 278, and 279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, 2014<sup>5</sup>, including any notes and appendices therein, unless expressly provided otherwise in these rules. ~~(4-11-15)~~( )

**01. Exceptions.** Nothing in 40 CFR Parts 260 - 268, 270, 273, 278, 279 or Part 124 as pertains to permits for Underground Injection Control (U.I.C.) under the Safe Drinking Water Act, the Dredge or Fill Program under Section 404 of the Clean Water Act, the National Pollution Discharge Elimination System (NPDES) under the Clean Water Act or Prevention of Significant Deterioration Program (PSD) under the Clean Air Act is adopted or included by reference herein. (5-8-09)

**02. Availability of Referenced Material.** The federal regulations adopted by reference throughout these rules are maintained at the following locations: (7-2-97)

a. U.S. Government Printing Office, <http://www.gpoaccess.gov/ecfr/index.html> <http://www.ecfr.gov/cgi-bin/ECFR>; and ~~(4-7-11)~~( )

b. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051, (208) 334-3316; and (7-2-97)

c. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208) 373-0502. (7-2-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**004. HAZARDOUS WASTE MANAGEMENT SYSTEM.**

40 CFR Part 260 and all Subparts, except 40 CFR 260.2, are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2014<sup>5</sup>. For the purposes of 40 CFR 260.10 in the definition of electronic manifest and electronic manifest system, "EPA" shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR 260.10, in the definition of hazardous waste constituent, "Administrator" shall be defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 260.20, "Federal Register" shall be defined as the Idaho

Administrative Bulletin.

(4-11-15)( )

**005. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE.**

40 CFR Part 261 and all Subparts (excluding 261.4(b)(17)), except the language “in the Region where the sample is collected” in 40 CFR 261.4(e)(3)(iii), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2014<sup>5</sup>. For purposes of 40 CFR 261.10 and 40 CFR 261.11, “Administrator” shall be defined as the U.S. Environmental Protection Agency Administrator. ~~For purposes of 40 CFR 261.41(a), Regional Administrator shall be defined as U.S. Environmental Protection Agency Region 10 Regional Administrator. Copies of advance notification required under this section should also be sent to the Director.~~ For purposes of 40 CFR 261.4(b)(11)(ii), 40 CFR 261.39(a)(5), 40 CFR 261.41, and 40 CFR 261 Appendix IX, “EPA” shall be defined as the U.S. Environmental Protection Agency. Copies of annual reports and advance notifications under these sections shall also be sent to the Director. (4-11-15)( )

**01. Excluded Wastes.** Chemically Stabilized Electric Arc Furnace Dust (CSEAFD) generated by Envirosafe Services of Idaho, Inc. (ESII) at ESII’s facility in Grand View, Idaho using the Super Detox(R) treatment process as modified by ESII and that is disposed of in a Subtitle D or Subtitle C landfill is excluded from the lists of hazardous waste provided ESII implements a program that meets the following conditions: (3-16-96)

**a.** Verification Testing Requirements. Sample Collection and analyses, including quality control procedures, conducted pursuant to Subsections 005.01.b. and 005.01.c., must be performed according to SW-846 methodologies and the RCRA Part B permit, including future revisions. (3-16-96)

**b.** Initial Verification Testing. (3-16-96)

**i.** For purposes of Subsections 005.01.b., “new source” shall mean any generator of Electric Arc Furnace Dust (EAFD), EPA and Idaho Department of Environmental Quality Hazardous Waste No. KO61, whose waste has not previously been processed by ESII using the Super Detox(R) treatment process resulting in processed EAFD which has been subjected to initial verification testing and has demonstrated compliance with the delisting levels specified in Subsection 005.01.d. (3-16-96)

**ii.** Prior to the initial treatment of any new source of EAFD, ESII must notify the Department in writing. The written notification shall include: (3-16-96)

(1) The waste profile information; and (3-16-96)

(2) The name and address of the generator. (3-16-96)

**iii.** The first four (4) consecutive batches treated must be sampled in accordance with Subsection 005.01.a. Each of the four (4) samples shall be analyzed to determine if the CSEAFD generated meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

**iv.** If the initial verification testing demonstrates that the CSEAFD samples meet the delisting levels specified in Subsection 005.01.d., ESII shall submit the operational and analytical test data, including quality control information, to the Department, in accordance with Subsection 005.01.f. Subsequent to such data submittal, the CSEAFD generated from EAFD originating from the new source shall be considered delisted. (3-16-96)

**v.** CSEAFD generated by ESII from EAFD originating from a new source shall be managed as hazardous waste in accordance with Subtitle C of RCRA until: (3-16-96)

(1) Initial verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d.; and (3-16-96)

(2) The operational and analytical test data is submitted to the Department pursuant to Subsection 005.01.b.iv. (3-16-96)

**vi.** For purposes of Subsections 005.01.b. and 005.01.c., “batch” shall mean the CSEAFD which results from a single treatment episode in a full scale mixing vessel. (3-16-96)

**c. Subsequent Verification Testing. (3-16-96)**

i. Subsequent to initial verification testing, ESII shall collect a representative sample, in accordance with Subsection 005.01.a., from each batch of CSEAFD generated by ESII. ESII may, at its discretion, conduct subsequent verification testing on composite samples. In no event shall a composite sample consist of representative samples from more than twenty (20) batches of CSEAFD. (3-16-96)

ii. The samples shall be analyzed prior to disposal of each batch of CSEAFD to determine if the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

iii. Each batch of CSEAFD generated by ESII shall be subjected to subsequent verification testing no later than thirty (30) days after it is generated by ESII. (3-16-96)

iv. If the levels of constituents measured in a sample, or composite sample, of CSEAFD do not exceed the levels set forth in Subsection 005.01.d., then any batch of CSEAFD which contributed to the sample that does not exceed the levels set forth in Subsection 005.01.d. is non-hazardous and may be managed and/or disposed of in a Subtitle D or Subtitle C landfill. (3-16-96)

v. If the constituent levels in a sample, or composite sample, exceed any of the delisting levels set forth in Subsection 005.01.d., then ESII must submit written notification of the results of the analysis to the Department within fifteen (15) days from receiving the final analytical results, and any CSEAFD which contributed to the sample must be: (3-16-96)

(1) Retested, and retreated if necessary, until it meets the levels set forth in Subsection 005.01.d.; or (3-16-96)

(2) Managed and disposed of in accordance with Subtitle C of RCRA. (3-16-96)

vi. Each batch of CSEAFD shall be managed as hazardous waste in accordance with Subtitle C of RCRA until subsequent verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

**d. Delisting Levels. (3-16-96)**

i. All leachable concentrations for these metals must not exceed the following levels (mg/l):

antimony	0.06	mercury	0.009
arsenic	0.50	nickel	1
barium	7.60	selenium	0.16
beryllium	0.010	silver	0.30
cadmium	0.050	thallium	0.020
chromium	0.33	vanadium	2
lead	0.15	zinc	70

(3-16-96)

ii. Metal concentrations must be measured in the waste leachate by the method specified in 40 CFR Part 261.24. (3-16-96)

**e. Modification of Treatment Process. (3-16-96)**

i. If ESII makes a decision to modify the Super Detox(R) treatment process from the description of

the process as set forth in ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995, ESII shall notify the Department in writing prior to implementing the modification. (3-16-96)

ii. After ESII's receipt of written approval from the Department, and subject to any conditions included with the approval, ESII may implement the proposed modification. (3-16-96)

iii. If ESII modifies its treatment process without first receiving written approval from the Department, this exclusion of waste will be void from the time the process was modified. (3-16-96)

iv. ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995 is available at the Department of Environmental Quality, Waste Management and Remediation Division, 1410 N. Hilton, Boise, Idaho 83706. (3-29-12)

**f. Records and Data Retention and Submittal.** (3-16-96)

i. Records of disposal site, operating conditions and analytical data from verification testing must be compiled, summarized, and maintained at ESII's Grand View facility for a minimum of five (5) years from the date the records or data are generated. (3-16-96)

ii. The records and data maintained by ESII must be furnished upon request to the Department or EPA. (3-16-96)

iii. Failure to submit requested records or data within ten (10) business days of receipt of a written request or failure to maintain the required records and data on site for the specified time, will be considered by the Department, at its discretion, sufficient basis to revoke the exclusion to the extent directed by the Department. (3-16-96)

iv. All records or data submitted to the Department must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the records or data submitted: "Under civil and/or criminal penalty of law for the making or submission of false or fraudulent statements or representations, I certify that the information contained in or accompanying this document is true, accurate, and complete. As to any identified sections of this document for which I cannot personally verify the truth and accuracy, I certify as the ESII official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete. In the event that any of this information is determined by the Department in its sole discretion to be false, inaccurate, or incomplete, and upon conveyance of this fact to ESII, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by the Department and that ESII will be liable for any actions taken in contravention of ESII's RCRA and CERCLA obligations premised upon ESII's reliance on the void exclusion." (3-16-96)

**g. Facility Merger and Name Change.** On May 4, 2001, the Department was notified of a stock transfer that resulted in ESII's facility merging with American Ecology. This created a name change from EnviroSAFE Services of Idaho, Inc. (ESII) to US Ecology Idaho, Inc. effective May 1, 2001. All references to EnviroSAFE Services of Idaho, Inc. or ESII now refer to US Ecology Idaho, Inc. (3-15-02)

**006. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE.**

**01. Incorporation by Reference.** 40 CFR Part 262 and all Subparts (excluding Subparts I and J and 40 CFR 262.10(j), 262.34(j),(k),(l)), except for the language "for the Region in which the generator is located" in 40 CFR 262.42(a)(2) and 40 CFR 262.42(b), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2014. For purposes of 40 CFR 262.53, 262.55, and 262.56, "EPA" shall be defined as the U.S. Environmental Protection Agency. Copies of advance notification, annual reports, and exception reports, required under those sections, shall also be provided to the Director. For purposes of 40 CFR ~~262.20~~, 262.21, ~~262.24~~, ~~262.25~~, 262.51, ~~262.53~~, 262.54(e), 262.54(g)(1), 262.55, 262.56, 262.60, and 262.85(g), EPA or Environmental Protection Agency shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR Part 262 Subparts E, F, H, and 40 CFR 262.41(a)(4), "United States or U.S." shall be defined as the United States. (4-11-15)( )

**02. Generator Emergency Notification.** In addition to the emergency notification required by 40 CFR 265.56(d)(2), 262.34(d)(5)(iv)(C), (see 40 CFR 262.34(a)(4)), 263.30(c)(1), and 264.56(d)(2), the emergency coordinator must also immediately notify the State Communications Center by telephone, 1-800-632-8000, to file an identical report. (3-15-02)

**007. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE.**

40 CFR Part 263 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2014<sup>5</sup>. For purposes of 40 CFR 263.20(g), 263.20(g)(1), 263.20(g)(4), 263.21(a)(4), and 263.22(d), “United States” shall be defined as the United States. For the purposes of 40 CFR 263.20(a), “EPA” shall be defined as U.S. Environmental Protection Agency. (4-11-15)( )

**008. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.**

40 CFR Part 264 and all Subparts (excluding 40 CFR 264.1(f), 264.1(g)(12), 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f) and 264.1080(g)) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2014<sup>5</sup>. For purposes of 40 CFR Subsection 264.12(a), “Regional Administrator” shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 264.71(a)(3) and 264.1082(c)(4)(ii), “EPA” shall be defined as the U.S. Environmental Protection Agency. (4-11-15)( )

**009. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.**

40 CFR Part 265, and all Subparts (excluding Subpart R, 40 CFR 265.1(c)(4), 265.1(c)(15), 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g)), except the language contained in 40 CFR 265.340(b)(2) as replaced with: “The following requirements continue to apply even when the owner or operator has demonstrated compliance with the MACT requirements of part 63, subpart EEE of this chapter: 40 CFR 265.351 (closure) and the applicable requirements of Subparts A through H, BB and CC of this part,” are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2014<sup>5</sup>. For purposes of 40 CFR Subsection 265.12(a), “Regional Administrator” shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 265.71(a)(3) and 265.1083(c)(4)(ii), “EPA” shall be defined as the U.S. Environmental Protection Agency. (4-11-15)( )

**010. STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE FACILITIES.**

40 CFR Part 266 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2014<sup>5</sup>. (4-11-15)( )

**011. LAND DISPOSAL RESTRICTIONS.**

40 CFR Part 268 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2014<sup>5</sup>, except for 40 CFR 268.1(e)(3), 268.5, 268.6, 268.13, 268.42(b), and 268.44(a) through (g). The authority for implementing the provisions of these excluded sections remains with the EPA. However, the requirements of Sections 39-4403(17) and 39-4423, Idaho Code, shall be applied in all cases where these requirements are more stringent than the federal standards. If the Administrator of the EPA grants a case-by-case variance pursuant to 40 CFR 268.5, that variance will simultaneously create the same case-by-case variance to the equivalent requirement of these rules. For purposes of 40 CFR 268.2(j) “EPA” shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR 268.40(b), “Administrator” shall be defined as U.S. Environmental Protection Agency Administrator. In 40 CFR 268.7(a)(9)(iii), “D009” is excluded, (from lab packs as noted in 40 CFR Part 268 Appendix IV.) (4-11-15)( )

**012. HAZARDOUS WASTE PERMIT PROGRAM.**

40 CFR Part 270 and all Subparts, except 40 CFR 270.1(c)(2)(ix), 270.12(a) and 40 CFR 270.14(b)(18), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2014<sup>5</sup>. For purposes of 40 CFR 270.2, 270.5, 270.10(e)(2), 270.10(e)(3), 270.10(f)(2), 270.10(f)(3), 270.10(g), 270.11(a)(3), 270.32(a), 270.32(b)(2), 270.32(c), 270.51, 270.72(a)(5), and 270.72(b)(5), “EPA” and “Administrator” or “Regional Administrator” shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator respectively. (4-11-15)( )

**013. PROCEDURES FOR DECISION-MAKING (STATE PROCEDURES FOR RCRA OR HWMA PERMIT APPLICATIONS).**

40 CFR Part 124, Subparts A, B and G are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2014<sup>5</sup>, except that the last sentence of 40 CFR 124.10(b)(1), 40 CFR 124.19, the fourth sentence of 40 CFR 124.31(a), the third sentence of 40 CFR 124.32(a), and the second sentence of 40 CFR 124.33(a) are expressly omitted from the incorporation by reference of each of those subsections. For purposes of 40 CFR 124.6(e), 124.10(b), and 124.10(c)(1)(ii) “EPA” and “Administrator” or “Regional Administrator” shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator, respectively. (4-11-15)( )

**014. (RESERVED)**

**015. STANDARDS FOR THE MANAGEMENT OF USED OIL.**

**01. Incorporation by Reference.** 40 CFR Part 279 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2014<sup>5</sup>. For purposes of 40 CFR 279.43(c)(3)(ii) “Director” shall be defined as the Director, U.S.DOT Office of Hazardous Materials Regulation. (4-11-15)( )

**02. Used Oil as a Dust Suppressant.** 40 CFR Part 279 contains a prohibition on the use of used oil as a dust suppressant at 279.82(a), however, States may petition EPA to allow the use of used oil as a dust suppressant. Members of the public may petition the State to make this application to EPA. This petition to the State must: (2-11-94)

**a.** Be submitted to the Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706-1255; and (2-11-94)

**b.** Demonstrate how the requirements of 40 CFR 279.82(b) will be met. (2-11-94)

**016. STANDARDS FOR UNIVERSAL WASTE MANAGEMENT.**

40 CFR Part 273 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2014<sup>5</sup>. For purposes of 40 CFR 273.32(a)(3), “EPA” shall be defined as the U.S. Environmental Protection Agency. (4-11-15)( )

**017. CRITERIA FOR THE MANAGEMENT OF GRANULAR MINE TAILINGS (CHAT) IN ASPHALT CONCRETE AND PORTLAND CEMENT CONCRETE IN TRANSPORTATION CONSTRUCTION PROJECTS FUNDED IN WHOLE OR IN PART BY FEDERAL FUNDS.**

40 CFR Part 278 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2014<sup>5</sup>. (4-11-15)( )

**018. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE FACILITIES OPERATING UNDER A STANDARDIZED PERMIT.**

40 CFR Part 267 and all Subparts, except 40 CFR 267.150, are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2014<sup>5</sup>. (4-11-15)( )

# IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

## 59.01.03 - PERSI CONTRIBUTION RULES

DOCKET NO. 59-0103-1402

### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. The pending rule becomes final and effective October 21, 2014, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

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

To eliminate contribution rate increases for employers and employees.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the June 3, 2015, Idaho Administrative Bulletin, [Vol. 15-6, pages 76 through 79](#).

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

There is no negative fiscal impact to the general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, PERSI, (208) 287-9271.

DATED this 1st Day of July, 2015.

Don Drum  
Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th Street, Boise, ID 83702  
P.O. Box 83720, Boise, ID 83720-0078  
Tel: (208) 287-9230  
Fax: (208) 334-3408

# IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

## 59.01.03 - PERSI CONTRIBUTION RULES

DOCKET NO. 59-0103-1403

### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. The pending rule becomes final and effective October 21, 2014, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

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

To reduce the excess merger cost portion of the firefighter retirement fund employer rate.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the June 3, 2015, Idaho Administrative Bulletin, [Vol. 15-6, pages 80 through 82](#).

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

There is no negative fiscal impact to the general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, PERSI, (208) 287-9271.

DATED this 1st Day of July, 2015.

Don Drum  
Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th Street, Boise, ID 83702  
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# LEGAL NOTICE

## Summary of Proposed Rulemakings

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

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

*The written comment submission deadline is August 26, 2015 unless otherwise noted.  
Public hearing request deadline is August 19, 2015 unless otherwise noted.  
(Temp & Prop) indicates the rule is both Temporary and Proposed.  
(\*PH) indicates that a public hearing has been scheduled.*

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

**08-0203-1506, Rules Governing Thoroughness.** Incorporates by reference the Special Education Manual and cut scores for the Idaho Standards Achievement Test (ISAT).

#### IDAPA 11 - IDAHO STATE POLICE / IDAHO STATE RACING COMMISSION 700 S Stratford Dr., Meridian, ID 83642

**11-0402-1501, Rules Governing Simulcasting.** (Temp & Prop) Limits pari-mutuel historical horse racing to three locations in Idaho that were licensed as of January 1, 2015 for simulcast and historical horse racing.

**11-0406-1501, Rules Governing Racing Officials.** (Temp & Prop) Allows the Racing Commission to appoint and compensate a third steward for live racing events in Idaho rather than the racing associations; outlines the duties of the presiding state steward and the two deputy state stewards.

**11-0411-1501, Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses.** (Temp & Prop) Owners or trainers are no longer required to request collection and testing of a split blood sample. Samples will be collected and stored by the State Racing Commission Veterinarian at the testing barn at the expense of the Commission.

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

**16-0101-1501, Emergency Medical Services (EMS) -- Advisory Committee (EMSAC).** Adds a citation in rule to educational curricula and standards currently being promulgated under IDAPA 16.01.05 indicating that it is the responsibility of the EMSAC to reviews the educational curricula and standards. Also adds some requirements, such as advance "do not resuscitate" directives, from a chapter that is being repealed.

**16-0102-1501, Emergency Medical Services (EMS) -- Rule Definitions.** Updates chapter to align it with the new EMS education chapter, changes made in the existing EMS personnel licensing chapter, and to recent additions to EMS statutes.

**16-0103-1501, Emergency Medical Services (EMS) -- Agency Licensing Requirements.** The EMS Agency Licensing rules are being amended to align with a new chapter of rules being written that provide the education, instructor, and examination standards an individual must meet to be a licensed EMS provider in Idaho. These rules also include additions and references to rules from the repeal of IDAPA 16.02.03, "Emergency Medical Services," and the new chapter in IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructors, and Examination Requirements."

**16-0105-1501, Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements.** New chapter implements and provides updated initial education, instructor, and examination requirements for emergency medical service providers and replaces the education requirements currently found in IDAPA 16.02.03.

**16-0107-1502, Emergency Medical Services (EMS) -- Personnel Licensing Requirements.** Aligns this chapter to rules that provide the education, instructor, and examination standards for EMS licensure and includes changes for continuing education venues and licensing renewal cycle requirements.

**16-0112-1501, Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions.** Aligns this chapter to rules that provide the education, instructor, and examination standards for EMS licensure and to align these rules with the agency and personnel licensing requirements that provide clarity for enforcement actions that can be taken.

**16-0203-1501, Emergency Medical Services.** Chapter is being repealed and the rules rewritten into a new chapter.

**16-0316-1501, Premium Assistance.** Chapter repealed because of discontinued federally-funded waiver program.

**16-0501-1501, Use and Disclosure of Department Records.** Aligns rules to the amended statute by clarifying that the person with authority to designate disposition of a decedent's remains should be considered a person with a "direct and tangible interest" and entitled to receive an official death certificate. This proposed rule amendment.

#### **IDAPA 35 - IDAHO STATE TAX COMMISSION**

**PO Box 36, Boise, ID 83722-0410**

**35-0105-1503, Idaho Motor Fuels Tax Administrative Rules.** Incorporates by reference section 110 of Administrative and Enforcement Rule (IDAPA 35.02.01); deletes parts of rules 115 and 132 that refer to the gaseous fuel permit or gaseous fuel decal because the gaseous fuels permit program was eliminated; conforms rule to HB 43 regarding limited distributors license.

#### **IDAPA 38 - DEPARTMENT OF ADMINISTRATION**

**PO Box 83720, Boise, ID 83720-0003**

**38-0501-1501, Rules of the Division of Purchasing.** Defines the terms "purchasing activity" and "purchasing authority."

#### **IDAHO TRANSPORTATION DEPARTMENT**

**PO Box 7129, Boise ID 83707-1129**

**39-0301-1501, Rules Governing Definitions Regarding Overlegal Permits.** (Temp & Prop) Conforms rule to HB 70 by amending the definitions of "excess weight," "overlegal permit," "overweight," and "reducible load." (eff. 7-23-15)T

**39-0322-1501, Rules Governing Overlegal Permits for Extra-Length, Excess Weight, and Up to 129,000 Pound Vehicle Combinations.** (Temp & Prop) Conforms rule to HB 70 to match tire limitation restrictions set in Idaho Code which allows more flexibility on steer axle weight allowance. (eff. 7-23-15)T

#### **IDAPA 42 - IDAHO WHEAT COMMISSION**

**PO Box 83720, Boise, ID 83720-0099**

**42-0101-1501, Rules of the Idaho Wheat Commission.** Increases the amount per bushel to 3½ cents paid to the Commission for commodity credit loans; clarifies elevator operator reporting; deletes reference to the quarterly return forms; corrects terminology.

#### **IDAPA 46 - BOARD OF VETERINARY MEDICINE**

**PO Box 7249, Boise, ID 83707**

**46-0101-1501, Rules of the State of Idaho Board of Veterinary Medicine.** Simplifies the reporting requirements and processing of continuing education credits for licensees and certificate holders and implements a random auditing system to monitor compliance with CE obligations.

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY  
PO Box 83720, Boise, ID 83720-0078**

**58-0101-1501, Rules for the Control of Air Pollution in Idaho.** Removes the greenhouse gas definition; updates the federal regulations incorporated by reference, revised as of July 1, 2015, and removes two federal provisions that are no longer required; clarifies the permit to construct section by defining a major source to include both the prevention of significant deterioration (PSD) and nonattainment new source review definitions.

**58-0102-1501, Water Quality Standards.** Currently DEQ does not have language in rule pertaining to a Use Attainability Analysis (UAA) process that is required to revise or remove a designated beneficial use that is not an existing use on a waterbody. This rulemaking is intended to develop sufficient language regarding the UAA process to complete an Office of Performance Evaluations recommended guidance document.

**58-0105-1501, Rules and Standards for Hazardous Waste.** Updates the federal regulations incorporated by reference to include those revised as of July 1, 2015; also denotes areas of the rules that are non-delegable to the states and must be implemented by EPA. In those instances, "EPA" will be defined as the U.S. Environmental Protection Agency.

**NOTICE OF ADOPTION OF TEMPORARY RULE**

**IDAPA 35 - IDAHO STATE TAX COMMISSION**

**35-0102-1503,** Idaho Sales and Use Tax Administrative Rules (eff. 6-10-15)T

**NOTICE OF INTENT TO PROMULGATE - NEGOTIATED RULEMAKING**

**IDAPA 27 - IDAHO BOARD OF PHARMACY**

**27-0101-1501,** Rules of the Idaho State Board of Pharmacy (2nd Notice - Mtg scheduled for Aug 13th)

Please refer to the Idaho Administrative Bulletin, [August 5, 2015, Volume 15-8](#), 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**

*Office of the Administrative Rules Coordinator  
Idaho Department of Administration*

*July 1, 1993 -- Present*

## **CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES**

*This online index provides a history of all agency rulemakings beginning with the first Administrative Bulletin in July 1993 to the most recent Bulletin publication. It tracks all rulemaking activities on each chapter of rules by the rulemaking docket numbers and includes negotiated, temporary, proposed, pending and final rules, public hearing notices, vacated rulemaking notices, notice of legislative actions taken on rules, and executive orders of the Governor.*

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## **ABRIDGED RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES (Index of Current Rulemakings)**

*Office of the Administrative Rules Coordinator  
Idaho Department of Administration*

*April 11, 2015 -- August 5, 2015*

*(eff. PLR) - Final Effective Date Is 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 11, 2015 that are still in process and all current rulemakings promulgated after April 11, 2015 - Sine Die, 2015 Legislative Session.)*

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**02-0214-1501** Proposed Rulemaking, Bulletin Vol. 15-7

***02.04.21, Rules Governing the Importation of Animals***

**02-0421-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-7

***02.04.29, Rules Governing Trichomoniasis***

**02-0429-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-7

***02.06.02, Rules Pertaining to the Idaho Commercial Feed Law***

**02-0602-1501** Proposed Rulemaking, Bulletin Vol. 15-7

***02.06.12, Rules Pertaining to the Idaho Fertilizer Law***

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**02-0622-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-7

***02.06.25, Rules Governing the Planting of Beans, other than Phaseolus Species, in Idaho***

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***02.06.41, Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001***

**02-0641-1501** Proposed Rulemaking, Bulletin Vol. 15-7

***IDAPA 07 -- DIVISION OF BUILDING SAFETY***

**07-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority from the Idaho Industrial Commission to the Division of Building Safety for Rules for Minimum Safety Standards and Practices for Logging Operations - Senate Bill No. 1001, Bulletin Vol. 15-7 (eff. 7-1-15)

**07-0901-1500** Notice of Legislative Action Transferring Rulemaking Authority from the Idaho Industrial Commission to the Division of Building Safety for Rules Concerning Safety and Health for Places of Public Employment - Senate Bill No. 1001, Bulletin Vol. 15-7 (eff. 7-1-15)

***07.02.03, Rules Governing Permit Fee Schedule***

**07-0203-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-4

***07.02.05, Rules Governing Plumbing Safety Licensing***

**07-0205-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-4

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***07.04.02, Safety Rules for Elevators, Escalators, and Moving Walks***

**07-0402-1501** Adoption of Temporary Fee Rule, Bulletin Vol. 15-6 (eff. 5-1-15)T

**07-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority from the Idaho Industrial Commission to the Division of Building Safety for Rules for Minimum Safety Standards and Practices for Logging Operations - Senate Bill No. 1001 Bulletin Vol. 15-7 (eff. 7-1-15)

***07.08.01, Idaho Minimum Safety Standards and Practices for Logging - General Provisions***

**07-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

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***07.08.03, Idaho Minimum Safety Standards and Practices for Logging - Explosives and Blasting***

**07-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

***07.08.04, Idaho Minimum Safety Standards and Practices for Logging - Garages, Machine Shops, and Related Work Areas***

**07-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

***07.08.05, Idaho Minimum Safety Standards and Practices for Logging - Signals and Signal Systems***

**07-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

***07.08.06, Idaho Minimum Safety Standards and Practices for Logging - Truck Road Standards***

**07-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

***07.08.07, Idaho Minimum Safety Standards and Practices for Logging - Transportation of Employees***

**07-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

***07.08.08, Idaho Minimum Safety Standards and Practices for Logging - Falling and Bucking***

**07-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

***07.08.09, Idaho Minimum Safety Standards and Practices for Logging - Rigging, Lines, Blocks, and Shackles***

**07-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

***07.08.10, Idaho Minimum Safety Standards and Practices for Logging - Canopy and Canopy Construction for Logging Equipment***

**07-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

***07.08.11, Idaho Minimum Safety Standards and Practices for Logging - Skidding and Yarding***

**07-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

***07.08.12, Idaho Minimum Safety Standards and Practices for Logging - Road Transportation***

**07-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

***07.08.13, Idaho Minimum Safety Standards and Practices for Logging - Log Dumps, Landing, Log Handling Equipment, Loading and Unloading Booms, Log Ponds, Rafting, Towing, Stiff Booms, Boom Sticks and Foot Logs, Pond Boats and Tow Boats and Trailer Loading Hoists***

**07-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

***07.08.14, Idaho Minimum Safety Standards and Practices for Logging - Helicopter Logging***

**07-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

***07.08.15, Idaho Minimum Safety Standards and Practices for Logging - Commonly Used Logging Terms***

**07-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

**07.08.16, Idaho Minimum Safety Standards and Practices for Logging - Recommended Safety Program**

**07-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

**07-0901-1500** Notice of Legislative Action Transferring Rulemaking Authority from the Idaho Industrial Commission to the Division of Building Safety for Rules Concerning Safety and Health for Places of Public Employment - Senate Bill No. 1001 Bulletin Vol. 15-7 (eff. 7-1-15)

**07.09.01, Safety and Health Rules for Places of Public Employment**

**07-0901-1500** Notice of Legislative Action Transferring Rulemaking Authority from the Idaho Industrial Commission to DBS, Bulletin Vol. 15-7 (eff. 7-1-15)

**IDA PA 08 -- IDAHO STATE BOARD OF EDUCATION  
AND STATE DEPARTMENT OF EDUCATION**

**08.01.09, Rules Governing the GEAR UP Idaho Scholarship Program**

**08-0109-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-6

**08.01.13, Rules Governing the Idaho Opportunity Scholarship Program**

**08-0113-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-6

**08.02.01, Rules Governing Administration**

**08-0201-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-6

**08.02.02, Rules Governing Uniformity**

**08-0202-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-6

**08-0202-1502\*** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-6 (\*Rulemaking Terminated)

**08-0202-1503** Notice of Adoption of Temporary Rule, Bulletin Vol. 15-7 (eff. 5-20-15)T

**08.02.03, Rules Governing Thoroughness**

**08-0203-1501** Adoption of Temporary Rule, Bulletin Vol. 15-2 (eff. 1-22-15)T

**08-0203-1502** Adoption of Temporary Rule, Bulletin Vol. 15-4 (eff. 2-19-15)T

**08-0203-1503** Proposed Rulemaking, Bulletin Vol. 15-6

**08-0203-1504** Temporary and Proposed Rulemaking, Bulletin Vol. 15-6 (4-16-15)T

**08-0203-1505** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-6

**08-0203-1506** Proposed Rulemaking, Bulletin Vol. 15-8

**08.05.01, Rules Governing Seed and Plant Certification - Regents of the University of Idaho**

**08-0501-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-6

**08-0501-1502** Notice of Adoption of Temporary Rule, Bulletin Vol. 15-7 (eff. 5-20-15)T

**IDA PA 09 -- IDAHO DEPARTMENT OF LABOR**

**09.01.06, Rules of the Appeals Bureau**

**09-0106-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-7

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

**10.01.01, Rules of Procedure**

**10-0101-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-6

**10-0101-1502** Adoption of Temporary Rule, Bulletin Vol. 15-6 (eff. 7-1-15)T

***10.01.02, Rules of Professional Responsibility***

**10-0102-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-6

***10.01.04, Rules of Continuing Professional Development***

**10-0104-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-6

***IDAPA 11 -- IDAHO STATE POLICE***

***IDAHO STATE RACING COMMISSION***

***11.04.02, Rules Governing Simulcasting***

**11-0402-1501** Temporary and Proposed Rulemaking, Bulletin Vol. 15-8 (eff. 7-29-15)T

***11.04.06, Rules Governing Racing Officials***

**11-0405-1501** Temporary and Proposed Rulemaking, Bulletin Vol. 15-8 (eff. 7-29-15)T

***11.04.11, Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances  
and Drug Testing of Horses***

**11-0411-1501** Temporary and Proposed Rulemaking, Bulletin Vol. 15-8 (eff. 7-29-15)T

***ALCOHOL BEVERAGE CONTROL BUREAU***

***11.05.01, Rules Governing Alcohol Beverage Control***

**11-0501-1401** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 14-10

***IDAPA 13 -- IDAHO FISH AND GAME COMMISSION***

***13.01.09, Rules Governing the Taking of Game Birds in the State of Idaho***

**13-0109-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-2

***13.01.11, Rules Governing Fish***

**13-0111-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-7

***13.01.16, The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals***

**13-0116-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-4

***13.01.17, Rules Governing the Use of Bait and Trapping for Taking Big Game Animals***

**13-0117-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-7

***IDAPA 15 -- OFFICE OF THE GOVERNOR***

***EXECUTIVE ORDERS OF THE GOVERNOR***

Executive Order No. **2015-04** Bulletin Vol. 15-8

Executive Order No. **2015-03** Bulletin Vol. 15-5

Executive Order No. **2015-02** Bulletin Vol. 15-5

Executive Order No. **2015-01** Bulletin Vol. 15-5

***IDAHO MILITARY DIVISION***

***15.06.05, Hazardous Substance Response Rules***

15-0605-1401 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 14-7

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

***16.01.01, Emergency Medical Services (EMS) -- Advisory Committee (EMSAC)***

16-0101-1501 Proposed Rulemaking, Bulletin Vol. 15-8

***16.01.02, Emergency Medical Services (EMS) - Rule Definitions***

16-0102-1501 Proposed Rulemaking, Bulletin Vol. 15-8

***16.01.03, Emergency Medical Services (EMS) -- Agency Licensing Requirements***

16-0103-1501 Proposed Rulemaking, Bulletin Vol. 15-8

***16.01.05, Emergency Medical Services (EMS) -- Education, Instructor, & Examination Requirements***

16-0105-1501 Notice of Intent to Promulgate Rules - Negotiated Rulemaking (New Chapter), Bulletin Vol. 15-3

16-0105-1501 (Second) Notice of Intent to Promulgate Rules - Negotiated Rulemaking (New Chapter), Bulletin Vol. 15-4

16-0105-1501 (Third) Notice of Intent to Promulgate Rules - Negotiated Rulemaking (New Chapter), Bulletin Vol. 15-5

16-0105-1501 Proposed Rulemaking, Bulletin Vol. 15-8

***16.01.07, Emergency Medical Services (EMS) -- Personnel Licensing Requirements***

16-0107-1501 Temporary and Proposed Rulemaking, Bulletin Vol. 15-1 (eff. 1-1-15)T

16-0107-1502 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-4

16-0107-1501 OAR Omnibus Notice of Legislative Action - Extension of Temporary Rule by SCR 127, Bulletin Vol. 15-5 (eff. 1-1-15)T

16-0107-1502 (Second) Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-5

16-0107-1501 Notice Of Rulemaking - Vacation Of Proposed Rulemaking, Bulletin Vol. 15-8

16-0107-1502 Proposed Rulemaking, Bulletin Vol. 15-8

***16.01.12, Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions***

16-0112-1501 Proposed Rulemaking, Bulletin Vol. 15-8

***16.02.01, Rules of the Idaho Time Sensitive Emergency System Council***

16-0201-1401 Notice of Intent to Promulgate Rules - Negotiated Rulemaking (New Chapter), Bulletin Vol. 14-9

16-0201-1401 Notice of Adoption of Temporary Rule (New Chapter - Fee Rule), Bulletin Vol. 15-2 (eff. 1-1-15)T

16-0201-1401 OAR Omnibus Notice of Legislative Action - Extension of Temporary Rule by SCR 127, Bulletin Vol. 15-5 (eff. 1-1-15)T

16-0201-1401 Proposed Rulemaking and Amendment to Temporary Rule (New Chapter - Fee Rule), Bulletin Vol. 15-7 (eff. 7-1-15)T

***16.02.03, Emergency Medical Services***

16-0203-1501 Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 15-8

***16.02.19, Food Safety and Sanitation Standards for Food Establishments (The Idaho Food Code)***

16-0219-1501 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-4

16-0219-1501 (Second) Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-5

***16.03.09, Medicaid Basic Plan Benefits***

16-0309-1501 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-6

16-0309-1502 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-6

16-0309-1503 Proposed Rulemaking, Bulletin Vol. 15-7

***16.03.10, Medicaid Enhanced Plan Benefits***

16-0310-1501 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-6

***16.03.13, Consumer-Directed Services***

16-0313-1501 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-6

***16.03.16, Premium Assistance***

**16-0316-1501** Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 15-8

***16.03.18, Medicaid Cost-Sharing***

**16-0318-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-7

***16.03.19, Rules Governing Certified Family Homes***

**16-0319-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-5

**16-0319-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking (2nd Notice), Bulletin Vol. 15-6

***16.05.01, Use and Disclosure of Department Records***

**16-0501-1501** Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 15-8

***16.06.12, Rules Governing the Idaho Child Care Program (ICCP)***

**16-0612-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-7

***16.07.17, Alcohol and Substance Use Disorders Services***

**16-0717-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-5

***16.07.20, Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs***

**16-0720-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-5

***IDAPA 17 -- INDUSTRIAL COMMISSION***

**17-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority from the Idaho Industrial Commission to the Division of Building Safety for Rules for Minimum Safety Standards and Practices for Logging Operations - Senate Bill No. 1001  
Bulletin Vol. 15-7 (eff. 7-1-15)

**17-1001-1500** Notice of Legislative Action Transferring Rulemaking Authority from the Idaho Industrial Commission to the Division of Building Safety for Rules Concerning Safety and Health for Places of Public Employment - Senate Bill No. 1001  
Bulletin Vol. 15-7 (eff. 7-1-15)

***17.02.06, Employers' Reports***

**17-0206-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-5

***17.02.07, Procedures to Obtain Compensation***

**17-0207-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-5

***17.02.08, Miscellaneous Provisions***

**17-0208-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-5

***17.02.09, Medical Fees***

**17-0209-1501** Adoption of Temporary Rule, Bulletin Vol. 15-1 (eff. 1-1-15)T

**17-0209-1501** OAR Omnibus Notice of Legislative Action - Extension of Temporary Rule by SCR 127, Bulletin Vol. 15-5 (eff. 1-1-15)T

**17-0209-1502** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-5

**17-0209-1503** Adoption of Temporary Rule, Bulletin Vol. 15-7 (eff. 7-1-15)T

***17.02.10, Administrative Rules of the Industrial Commission Under the Workers' Compensation Law -- Security for Compensation -- Insurance Carriers***

**17-0210-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-5

***17.02.11, Administrative Rules of the Industrial Commission Under the Workers' Compensation Law -- Security for Compensation -- Self-Insured Employers***

**17-0211-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-5

**17-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority from the Idaho Industrial Commission to the Division of Building Safety for Rules for Minimum Safety Standards and Practices for Logging Operations - Senate Bill No. 1001  
Bulletin Vol. 15-7 (eff. 7-1-15)

**(Rule Transferred to IDAPA 07.08.01)**

**17.08.01, Idaho Minimum Safety Standards and Practices for Logging - General Provisions**

**17-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

**(Rule Transferred to IDAPA 07.08.02)**

**17.08.02, Idaho Minimum Safety Standards and Practices for Logging - Health, Safety, and Sanitation**

**17-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

**(Rule Transferred to IDAPA 07.08.03)**

**17.08.03, Idaho Minimum Safety Standards and Practices for Logging - Explosives and Blasting**

**17-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

**(Rule Transferred to IDAPA 07.08.04)**

**17.08.04, Idaho Minimum Safety Standards and Practices for Logging - Garages, Machine Shops,  
and Related Work Areas**

**17-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

**(Rule Transferred to IDAPA 07.08.05)**

**17.08.05, Idaho Minimum Safety Standards and Practices for Logging - Signals and Signal Systems**

**17-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

**(Rule Transferred to IDAPA 07.08.06)**

**17.08.06, Idaho Minimum Safety Standards and Practices for Logging - Truck Road Standards**

**17-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

**(Rule Transferred to IDAPA 07.08.07)**

**17.08.07, Idaho Minimum Safety Standards and Practices for Logging - Transportation of Employees**

**17-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

**(Rule Transferred to IDAPA 07.08.08)**

**17.08.08, Idaho Minimum Safety Standards and Practices for Logging - Falling and Bucking**

**17-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

**(Rule Transferred to IDAPA 07.08.09)**

**17.08.09, Idaho Minimum Safety Standards and Practices for Logging - Rigging, Lines, Blocks, and Shackles**

**17-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

**(Rule Transferred to IDAPA 07.08.10)**

**17.08.10, Idaho Minimum Safety Standards and Practices for Logging - Canopy and Canopy Construction  
for Logging Equipment**

**17-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

**(Rule Transferred to IDAPA 07.08.11)**

**17.08.11, Idaho Minimum Safety Standards and Practices for Logging - Skidding and Yarding**

**17-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

**(Rule Transferred to IDAPA 07.08.12)**

**17.08.12, Idaho Minimum Safety Standards and Practices for Logging - Road Transportation**

**17-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

**(Rule Transferred to IDAPA 07.08.13)**

**17.08.13, Idaho Minimum Safety Standards and Practices for Logging - Log Dumps, Landing, Log Handling Equipment, Loading and Unloading Booms, Log Ponds, Rafting, Towing, Stiff Booms, Boom Sticks and Foot Logs, Pond Boats and Tow Boats and Trailer Loading Hoists**

**17-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

**(Rule Transferred to IDAPA 07.08.14)**

**17.08.14, Idaho Minimum Safety Standards and Practices for Logging - Helicopter Logging**

**17-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

**(Rule Transferred to IDAPA 07.08.15)**

**17.08.15, Idaho Minimum Safety Standards and Practices for Logging - Commonly Used Logging Terms**

**17-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

**(Rule Transferred to IDAPA 07.08.16)**

**17.08.16, Idaho Minimum Safety Standards and Practices for Logging - Recommended Safety Program**

**17-0800-1500** Notice of Legislative Action Transferring Rulemaking Authority to DBS from IC, Bulletin Vol. 15-7 (eff. 7-1-15)

**17-1001-1500** Notice of Legislative Action Transferring Rulemaking Authority from the Idaho Industrial Commission to the Division of Building Safety for Rules Concerning Safety and Health for Places of Public Employment - Senate Bill No. 1001  
Bulletin Vol. 15-7 (eff. 7-1-15)

**(Rule Transferred to IDAPA 07.09.01)**

**17.10.01, Safety and Health Rules for Places of Public Employment**

**17-1001-1500** Notice of Legislative Action Transferring Rulemaking Authority from the Idaho Industrial Commission to DBS,  
Bulletin Vol. 15-7 (eff. 7-1-15)

**IDAPA 18 -- DEPARTMENT OF INSURANCE**

**18.01.27, Self-Funded Employee Health Care Plans Rule**

**18-0127-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-7

**18.01.44, Schedule of Fees, Licenses, and Miscellaneous Charges**

**18-0144-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-7

**18.01.60, Long-Term Care Insurance Minimum Standards**

**18-0160-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-7

**IDAPA 20 -- DEPARTMENT OF LANDS**

**20.03.16, Rules Governing Oil and Gas Leasing on Idaho State Lands**

**20-0316-1401** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 14-7

**20.07.01, Rules of Practice and Procedure Before the Idaho Oil And Gas Conservation Commission**

**20-0701-1501\*** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-6 (\*Rulemaking Terminated)

***IDAPA 23 -- BOARD OF NURSING***

***23.01.01, Rules of the Idaho Board of Nursing***

- 23-0101-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-6
- 23-0101-1502\*** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-6 (\*Rulemaking Terminated)
- 23-0101-1503** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-6

***IDAPA 26 -- DEPARTMENT OF PARKS AND RECREATION***

***26.01.06, Rules Governing Cooperator Recognition and Sale of Advertising***

- 26-0106-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-8

***IDAPA 27 -- BOARD OF PHARMACY***

***27.01.01, Rules of the Idaho State Board of Pharmacy***

- 27-0101-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-7
- 27-0101-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-8 (2nd Notice)

***IDAPA 35 -- STATE TAX COMMISSION***

***35.01.01, Income Tax Administrative Rules***

- 35-0101-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-7

***35.01.02, Idaho Sales and Use Tax Administrative Rules***

- 35-0102-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-5
- 35-0102-1502** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-6
- 35-0102-1503** Adoption of Temporary Rule, Bulletin Vol. 15-8 (eff. 6-10-15)T

***35.01.03, Property Tax Administrative Rules***

- 35-0103-1501** Adoption of Temporary Rule, Bulletin Vol. 15-1 (eff. 1-1-15)T
- 35-0103-1501** OAR Omnibus Notice of Legislative Action - Extension of Temporary Rule by SCR 127, Bulletin Vol. 15-5 (eff. 1-1-15)T
- 35-0103-1502** Adoption of Temporary Rule, Bulletin Vol. 15-7 (eff. 7-1-15)T
- 35-0103-1503** Temporary and Proposed Rulemaking, Bulletin Vol. 15-7 (eff. 7-1-15)T
- 35-0103-1504** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-7

***35.01.05, Motor Fuels Tax Administrative Rules***

- 35-0105-1501** Temporary and Proposed Rulemaking, Bulletin Vol. 15-7 (eff. 7-1-15)T
- 35-0105-1502** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-7
- 35-0105-1503** Adoption of Temporary Rule, Bulletin Vol. 15-8 (eff. 6-10-15)T

***35.01.12, Idaho Beer Tax Administrative Rules***

- 35-0112-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-7

***IDAPA 37 -- DEPARTMENT OF WATER RESOURCES***

***37.03.13, The Water Management Rules***

- 37-0313-9701** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 97-12
- 37-0313-9701** Proposed Rulemaking, Bulletin Vol. 98-10
- 37-0313-9701** Notice of Intent to Promulgate Rules - Negotiated Rulemaking (2nd Notice), Bulletin Vol. 00-11

***IDAPA 38 -- IDAHO DEPARTMENT OF ADMINISTRATION***

***38.04.04, Rules Governing Capitol Mall Parking***

**38-0404-1501** Temporary and Proposed Rulemaking, Bulletin Vol. 15-6 (eff. 7-1-15)T

***38.04.07, Rules Governing Use of the Interior of State Property in the Capitol Mall and Other State Facilities***

**38-0407-1501** Temporary and Proposed Rulemaking, Bulletin Vol. 15-6 (eff. 7-1-15)T

***38.05.01, Rules of the Division of Purchasing***

**38-0501-1501** Notice of Intent to Promulgate Rules - Temporary and Proposed Rulemaking, Bulletin Vol. 15-8 (eff. 6-6-15)T

***IDAPA 39 -- IDAHO TRANSPORTATION DEPARTMENT***

***39.02.03, Rules Governing Vehicle Dealer's Principle Place of Business***

**39-0203-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-6

***39.03.01, Rules Governing Definitions Regarding Overlegal Permits***

**39-0301-1501** Temporary and Proposed Rulemaking, Bulletin Vol. 15-8 (eff. 7-23-15)T

***39.03.13, Rules Governing Overweight Permits***

**39-0313-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-7

***39.03.22, Rules Governing Overlegal Permits for Extra-Length, Excess Weight, and Up To 129,000 Pound Vehicle Combinations***

**39-0322-1501** Temporary and Proposed Rulemaking, Bulletin Vol. 15-8 (eff. 7-23-15)T

***IDAPA 42 -- IDAHO WHEAT COMMISSION***

***42.01.01, Rules of the Idaho Wheat Commission***

**42-0101-1501** Proposed Rulemaking, Bulletin Vol. 15-8

***IDAPA 46 -- BOARD OF VETERINARY MEDICAL EXAMINERS***

***46.01.01, Rules of the State of Idaho Board of Veterinary Medicine***

**46-0101-1501** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 15-6

**46-0101-1501** Proposed Rulemaking, Bulletin Vol. 15-8

***IDAPA 58 -- DEPARTMENT OF ENVIRONMENTAL QUALITY***

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